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FOIA # 60048
(URTS 16444)
By: NARA (RD-F)
Date: 2/6/2019

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: FLANIGAN, TIMOTHY E., ACTING AAG, OLC
To: GENERAL COUNSELS' CONSULTATIVE GROUP (CC: AG.) ODD: NONE
Date Received: 12-02-91 Date Due: NONE Control #: X91120219916
Subject & Date
11-29-91 MEMO (COPY REC'D FROM OAG) ADVISING THAT THE NEXT
MEETING OF THE GENERAL COUNSELS' CONSULTATIVE GROUP WILL BE
ON FRIDAY, DECEMBER 6, 1991, AT 2:00 P.M. IN THE DOJ COMMAND
CENTER (ROOM 6100 MAIN JUSTICE).

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;	12-02-91	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1A
	INTERIM BY:			DATE:		OPR:
	Sig. For:	NONE		Date Released:		MAU

Remarks
INFO CC: OAG (ANDREWS), DAG.

Other Remarks:

WBD 12-02-91
FILE: OFFICE OF LEGAL COUNSEL (OLC)

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16 NOV 91



U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

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Washington, D.C. 20530

'91 DEC -2 A11:22

November 29, 1991

EXECUTIVE SECRETARIAT

MEMORANDUM

TO: General Counsels' Consultative Group

FROM: Timothy E. Flanigan
Acting Assistant Attorney General
Office of Legal Counsel

RE: Next Meeting -- December 6th, 2:00 p.m.

The next meeting of the General Counsels' Consultative Group will be at 2:00 p.m. on Friday, December 6, 1991, in the Department of Justice Command Center (Room 6100, Main Justice). The meeting should run about one and one-half hours. As we agreed at our October meeting, the upcoming meeting will focus on the comprehensive set of guidelines for standards of conduct that is being prepared by the Office of Government Ethics. I am pleased that Stephen Potts, the Director of OGE, has agreed to meet with us.

Please let Lawan Robinson in my office (514-2051) know whether you will attend the meeting. I look forward to seeing all of you.

Dec 2 9 42 AM '91
OFFICE OF LEGAL COUNSEL
ATTORNEY GENERAL

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FOIA # 60048
(URTS 16444)
By: NARA (RD-F)
Date: 2/6/2019

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: DARMAN, RICHARD, DIRECTOR, OMB
To: HEADS OF EXEC. DEPTS AND ESTABLISHMENTS (AG.) ODD: NONE
Date Received: 10-18-91 Date Due: NONE Control #: X91102117984
Subject & Date

10-01-91 MEMO (BULLETIN NO. 92-01) ATTACHING A REPLACEMENT
FOR PART VI OF OMB CIRCULAR NO. A-34 WHICH INCORPORATES THE
REQUIREMENTS OF THE FEDERAL CREDIT REFORM ACT OF 1990, UNDER
WHICH THE BUDGET ACCOUNTING PROCEDURES FOR FEDERAL CREDIT
PROGRAMS WERE REVISED. QUESTIONS OR SUGGESTIONS REGARDING
PART VI SHOULD BE ADDRESSED TO THE OMB REPRESENTATIVE WITH
PRIMARY BUDGET RESPONSIBILITY FOR THE RELEVANT ACCOUNT.
(NOTE: NO PRIOR CORRESPONDENCE IN EXEC. SEC.)

Referred To: Date:		Referred To: Date:		
(1)	JMD;FLICKINGER 10-21-91	(5)		W/IN:
(2)		(6)		
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INTERIM BY:		DATE:		OPR:
Sig. For: JMD		Date Released:		EHZ

Remarks
INFO CC: OAG, DAG.
(1) FOR APPROPRIATE HANDLING.

Other Remarks:

KMM 10-21-91
FILE: OFFICE OF MANAGEMENT AND BUDGET (OMB)
J911021 4221

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1 Oct 91



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

October 1, 1991

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EXECUTIVE SECRETARIAT

OMB BULLETIN NO. 92-01

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Replacement for Part VI of OMB Circular No. A-34

OMB Circular No. A-34 incorporates the requirements of the Federal Credit Reform Act of 1990, under which the budget accounting procedures for Federal credit programs were revised. Attached is a replacement for Part VI of the Circular.

Questions or suggestions regarding Part VI should be addressed to the OMB representative with primary budget responsibility for the relevant account.

Richard Darman
Director

Attachment

Filing Instructions:

Replace the old Part VI with the attached Part VI.

Replace old exhibits 63A through 64B with the attached exhibits.

PART VI. CREDIT APPORTIONMENT AND BUDGET EXECUTION

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*Office of Management and Budget
Budget Review and Concepts Division*

PART VI. CREDIT APPORTIONMENT AND EXECUTION

61.0. General Information and Requirements.

These instructions on apportionment and budget execution for Federal credit programs reflect the requirements of the Federal Credit Reform Act of 1990, hereafter referred to as the Act. The Act is found at Title V of the Congressional Budget Act of 1974, as amended by section 13201 of the Omnibus Budget Reconciliation Act of 1990. The major purposes of the Act are to:

- measure more accurately the costs of Federal credit programs;
- place the cost of credit programs on a budgetary basis equivalent to other Federal spending;
- encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and
- improve the allocation of resources among credit programs and between credit and other spending programs.

Prior to credit reform, a direct loan was recorded in the budget totals as a cash outlay in full when it was disbursed. The guarantee of a loan disbursed by a private lender was recorded in the budget totals only when cash outlays were made, such as upon the default of the borrower or when interest supplements were paid, or when fees were collected.

Under the new treatment required by the Act, all estimated subsidy costs arising from post-1991 direct loan obligations and loan guarantee commitments will be recorded in program accounts. All other cash flows arising from post-1991 direct loan obligations and loan guarantee commitments will be recorded in separate direct loan and guaranteed loan financing accounts. These financing accounts will not be included in the budget totals. The net cash flows for these direct and guaranteed loan transactions will be recorded outside the budget totals as a means of financing the deficit. In other words, only the unreimbursed costs of making new loans—the subsidy costs, on a net present value basis, and administrative expenses, on a cash basis—will be counted in the budget totals.

61.1. Coverage.

These instructions apply to all direct loan and loan guarantee programs. Section 506 of the Act exempts certain credit programs from credit reform account-

ing. These programs are still required to report other credit data.

61.2. Requirement for Appropriations.

Beginning with fiscal year 1992, new direct loan obligations may be incurred and new loan guarantee commitments may be made only to the extent that:

- appropriations of budget authority to cover their costs are made in advance;
- a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program is enacted; or
- authority is otherwise provided in appropriation acts.

Exemptions from this requirement for programs considered mandatory will be specified by OMB pursuant to section 504(c) of the Act.

62.0. Terminology and Concepts.

For the purpose of this Circular, the following definitions and treatments apply.

62.1. Credit Account Structure.

The term "credit accounts" means the "program account", "financing account", and "liquidating account" associated with a credit program. Each of these is defined, as follows:

(a) **Program Account.**—The term credit "program account" means the budget account into which an appropriation to cover the subsidy cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account. See "financing account", below. Usually, a separate amount for administrative expenses is also appropriated in the program account. See section 62.5, "Administrative Expenses". Within a program account, activity is shown separately for direct loans and loan guarantees, for each different direct loan and loan guarantee program, for modifications, for reestimates, and for administrative expenses.

(b) **Financing Account.**—The term "financing account" means the non-budget account or accounts associated with each credit program account which holds balances, receives the subsidy cost payment from the credit program account, and includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991. Each program account is associated with one or

two financing accounts, depending on whether the account makes both direct loans and loan guarantees. Separate financing accounts are required for direct loans and loan guarantees. See "program account", above.

(c) **Liquidating Account.**—The term "liquidating account" means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991. Cash flows associated with modified direct loans and loan guarantees are to be treated as exceptions. See section 62.9, "Modifications". All liquidating accounts will be coded as mandatory spending beginning in fiscal year 1992.

(d) **Pre-1992.**—This term means the direct loan obligations or loan guarantee commitments made prior to October 1, 1991, which is the beginning of fiscal year 1992, and the resulting direct loans or loan guarantees.

(e) **Post-1991.**—This term means the direct loan obligations or loan guarantee commitments made on or after October 1, 1991, and the resulting direct loans or loan guarantees.

62.2. Cohort of Loans.

Post-1991 direct loans and loan guarantees will be identified by cohort within each program. They will remain with their original cohort throughout their life, even if they are modified. Accounting and other records will be maintained separately for each cohort.

Pre-1992 direct loans that are modified will constitute a single cohort. Similarly, pre-1992 loan guarantees that are modified will constitute a single cohort. See section 62.9, "Modifications".

(a) **Subsidized by Annual Appropriations.**—For post-1991 loans subsidized by annual appropriations, all direct loans obligated in the same fiscal year for each program will constitute a cohort, even if disbursements occur in subsequent fiscal years.

Likewise all post-1991 loan guarantees committed in the same fiscal year for each program will constitute a cohort, even if disbursements occur in subsequent fiscal years.

(1) **Direct Loan Cohorts.**—As an illustration, the direct loan programs with annual subsidy appropriations in the "Business Loans Program Account" for the Small Business Administration are:

- Handicapped loans;
- Economic opportunity loans;
- Section 8(a) loans;

—Veterans loans; and

—Minority enterprise SBIC loans.

Loans for each of the direct loan programs listed above that are obligated in fiscal year 1992 and subsidized by fiscal year 1992 appropriations will constitute a cohort.

Loans for each of the direct loan programs listed above that are obligated in fiscal year 1993 and subsidized by fiscal year 1993 appropriations will constitute a different cohort.

(2) **Loan Guarantee Cohorts.**—As an illustration, the guaranteed loan programs with subsidy appropriations in the "Business Loans Program Account" for the Small Business Administration are:

- General business loans;
- Section 502 development company loans;
- Section 504 development company loans;
- Investment company loans; and
- Minority enterprise SBIC loans.

Loan guarantees for each of the loan guarantee programs listed above that are committed in fiscal year 1992 and subsidized by fiscal year 1992 appropriations will constitute a cohort.

Loan guarantees for each of the programs listed above that are committed in fiscal year 1993 and subsidized by fiscal year 1993 appropriations will constitute a different cohort.

(b) **Subsidized by Multi-year and No-year Appropriations.**—For post-1991 direct loans and loan guarantees subsidized by multi-year and no-year appropriations, all direct loans and loan guarantees that receive appropriations in the same fiscal year for each program will constitute a cohort.

62.3. Risk Category.

Risk categories are the subdivisions of a cohort of direct loans or loan guarantees into groups of loans that are relatively homogenous in cost, given the facts known at the time of obligation or commitment. Risk categories are required to be used for budget formulation whenever the new direct loans obligated or loan guarantees committed within a cohort are not relatively homogenous in this regard. These risk categories will group all loans obligated or committed for a program during the year that share characteristics predictive of defaults and other costs.

(a) **Development of Risk Categories.**—Risk categories will be developed by agencies in consultation with the OMB representative with primary budget responsibility for the credit account. The number of categories will depend on the size of the differential

in subsidy cost between categories and the ability to predict it statistically based on facts known at origination.

Risk categories may be defined by characteristics or combinations of characteristics of the loan, the project financed, and/or the borrower. Examples of characteristics or indicators that may predict cost include the loan-to-value ratio, the relationship between the loan interest rate and relevant market rates, and various asset or income ratios. Borrower-category characteristics such as type of school attended for education loans, or country risk categories for international loans, may be taken into account. If multiple characteristics or indicators are used, one may cross-classify another, or mathematical combinations may be used.

However the risk category is defined, statistical evidence must be presented, based on historical analysis of program data or comparable credit data, as to the likely costs—whether defaults, other deviations from contract, or other costs—that are expected to be associated with the loans in that category.¹

(b) Accounting by Risk Category.

(1) *Initial Obligation or Commitment.*—When a direct loan is obligated or a loan guarantee is committed, it should be placed in an appropriate risk category, which should be reflected in the loan identification number. The technical factors (defaults, delinquencies, other deviations from contract, and other costs) associated with that risk category should be used to calculate the expected cash flows from that loan or guarantee. The net value of these cash flows, discounted by the interest rate (yield) on marketable Treasury securities of comparable maturity to the loan, constitutes the subsidy estimate for that loan or guarantee.

(2) *Reestimates.*—In the financing account, all loan cash flows will be segregated by cohort and risk category. All loan records from a cohort necessary to measure the accuracy of the subsidy, including records for defaulted or prepaid loans, will be retained by risk category so long as any loans from that cohort are outstanding. These data will be used as described below in section 62.8, “Reestimates”, to reestimate the subsidy annually for each risk category.

Any reestimate of the required subsidy in any risk category during the annual review should lead to a review of the accuracy of the technical factors by risk

category in making subsidy estimates for the next budget.

62.4. Financing Tranche.

At the time that a post-1991 direct loan or guaranteed loan is disbursed, each loan or guarantee will be assigned to a financing tranche.

(a) **Definition.**—A financing tranche shall comprise all the direct loans or guaranteed loans within a cohort, separately identified by risk category, that are disbursed in the same quarter and that have similar maturity (i.e., that fall within the same maturity interval). The maturity or term of a loan is specified in the loan contract. All borrowing from Treasury and all interest earned on uninvested funds from Treasury for a given financing tranche will be at the same interest rate (yield).

(b) **Purpose.**—Loans will be grouped into financing tranches for the purpose of (1) computing accrued interest expense on borrowing from Treasury, and (2) computing accrued interest earnings from Treasury on uninvested funds. Financing tranches may also be used to record collections data by type. See Appendix C, “Functional Requirements for Direct Loan Accounting Systems”, and Appendix D, “Functional Requirements for Guaranteed Loan Accounting Systems.”

(c) **Interest rate for financing tranche.**—The interest rate for a particular financing tranche will be the interest rate (yield) that is applicable to the quarter when the direct loans or guaranteed loans are disbursed, on marketable Treasury securities of similar maturity to the direct loans or guaranteed loans that constitute that financing tranche. All borrowing by that financing tranche from Treasury, whether at the time of disbursement or later, will bear this same interest rate. All uninvested funds held by that financing tranche, whether collected at the time of disbursement or later, will earn this same interest rate. The Department of the Treasury will provide the schedule of interest rates (yields), by maturity interval, that are applicable to each quarter. See section 62.4(i). Exceptions will be made for modifications to pre-1992 loans and for working capital, as explained below in sections 62.4(f) and 62.4(g).

(d) **Borrowing.**—In the case of a direct loan financing fund, the amount of the loan disbursement, less the subsidy, will be borrowed from Treasury. The fund may also borrow subsequently (for example, to

¹ These technical factors will be described in agencies' budget submissions under OMB Circular No. A-11.

pay interest to Treasury on its borrowing in the absence of adequate cashflow at the start of a loan cycle). A guaranteed loan financing fund may borrow from Treasury on occasion (for example, to meet default claims in excess of its cash balances and in advance of expected collections from the public or subsidy reestimates). The interest rate paid on all borrowing for a particular financing tranche will be the same and will be as determined above in section 62.4c.

Borrowing will be in the form of a balloon note that requires monthly payment of the interest that has accrued. No amortization schedule will be used, and no prepayment premiums will be charged. The direct loan financing accounts will be required to make semi-annual payments on March 31 and September 30 of each year in the amount of balances in excess of working capital requirements. Guaranteed loan financing accounts that have borrowed from Treasury will be required to make semi-annual payments on the same dates in the amount of balances in excess of requirements to pay default claims and other expenses. The payments by the financing accounts to Treasury will be used first to pay interest that has been accrued but not yet paid; the remainder will be used to repay principal on the debt.

(e) **Earning Interest.**—A guaranteed loan financing fund will hold its subsidy payment, upfront fees, and subsequent collections of interest, fees, etc., in uninvested funds. A direct loan financing account will also hold collections in uninvested funds (for example, collections of interest and principal not yet paid to Treasury at the scheduled dates). The interest rate earned on all uninvested funds for a particular financing tranche will be the same and will be as determined above in section 62.4(c). The balance on which interest is earned will be the average daily balance outstanding during the month. Treasury will make interest payments on this balance at the end of each month.

(f) **Modifications.**—Modifications to the contract of a post-1991 loan or guarantee will be classified in the cohort and financing tranche of the original loan. In the case of direct loans, the additional subsidy will earn interest at the rate of the original financing tranche until it is used to pay interest to Treasury or repay debt to Treasury at the next semi-annual payment. In the case of guaranteed loans, the additional subsidy will earn interest at the rate received by the financing tranche in which the original loan was classified.

Modifications to pre-1992 loans and guarantees, which will be transferred from the liquidating to the financing account at modification, will be placed in a special cohort for modified pre-1992 loans or guarantees. They will be assigned to special financing tranches determined by the interest rate (yield) that is applicable to the quarter when the modification is made, on marketable Treasury securities with a similar maturity to the remaining maturity (i.e., loan term) of the modified loan at the time of modification. The Department of the Treasury will provide a schedule of interest rates (i.e., yields), by maturity interval, that are applicable to the modifications made in each quarter. See section 62.4(i).

(g) **Working Capital.**—Some programs need working capital to pay the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from sales proceeds. Because properties from loans in different financing tranches will be administered together, programs that need working capital cash balances may set aside a fixed rate or amount of collections from each financing tranche to create and maintain such balances as approved by the OMB representative with primary budget responsibility for the credit account. These balances will be maintained within the financing account. Treasury will determine a short-term interest rate at which these balances will earn interest. Because on average this rate is likely to be lower than the rate earned by financing tranches, the working capital cash balances should be kept at minimal levels.

(h) **Procedures for Borrowing from Treasury.**—A new agreement between Treasury and the borrowing agency must be executed for all programs that will borrow from Treasury under the provisions of the Federal Credit Reform Act of 1990. Borrowing transactions for principal borrowed and repaid will be processed as Non-Expenditure Transfers (SF 1151). Non-Expenditure Transfers should be submitted to Treasury on the date of the borrowing or repayment. Interest payments will be processed as Expenditure Transfers (SF 1081) and submitted to Treasury via the Statement of Transactions (SF 224) at month-end. Interest payments should be verified prior to submission on the SF 224. Questions regarding borrowing agreements, SF 1151 transactions, and interest calculations can be addressed to:

Finance Management Branch
Financial Management Service
Department of the Treasury
Liberty Center (UCP, Room 723)
Washington, DC 20227

(Telephone (202) 208-1480)

(i) **Interest Rates.**—The Department of the Treasury will provide a schedule of interest rates (yields) by maturity interval at the beginning of each quarter. The interest rate (yield) for each maturity interval will be based on the actual interest rates (yields) on marketable Treasury securities within that maturity interval at the end of the previous quarter. This schedule of interest rates (yields) will be used during that quarter to calculate subsidies and to determine the interest rate for new financing tranches. The schedule of interest rates (yields) will be made available on the Department of Commerce's computerized Economic Bulletin Board.

(j) **Interest on Uninvested Funds.**—Interest on uninvested funds will be calculated by the agencies and verified by Treasury. These payments will be processed on the Statement of Transactions (SF 224). Questions on uninvested funds can be addressed to:

Credit Accounting Branch
Financial Management Service
Department of the Treasury
Liberty Center (Room 143)
Washington, DC 20227
(Telephone (202) 874-6880)

(k) **Treasury Reporting Requests.**—Additional instructions on Treasury reporting requirements, interest rates, borrowings, and interest on uninvested funds will be published in the Treasury Financial Manual.

(l) **Alternative Methods to Maintain Financing Tranche Data.**—The functional statements in Appendices C and D describe approved methods to maintain tranche data. Agencies may submit alternative methods for approval by Treasury and the OMB representative with primary budget responsibility for the credit account. Alternative methods must result in interest payments and interest earnings that are the same as would result from the method prescribed in this circular.

62.5. Administrative Expenses.

All credit administrative expenses shall be paid from the program account. The term "administrative costs" may be used interchangeably with the term "administrative expenses".

(a) **Definition.**—Unless otherwise determined by the OMB representative with primary budget responsibility for the credit account, the term "administrative expenses" means the portion of the total salaries and expenses that are *directly* related to credit

program operations. Administrative expenses that are *tangentially* related should not be included. Administrative expenses include:

- the appropriate proportion of administrative expenses that are shared with non-credit programs;
- the cost of operating separate offices or units that make policy decisions for credit programs;
- the cost of loan systems development and maintenance, including computer costs (under no circumstance will computer systems costs be paid out of the financing account);
- the cost of monitoring credit programs and private lenders for compliance with laws and regulations;
- the cost of all activities related to:
 - credit extension;
 - loan servicing;
 - write-off and close out; and
- the cost of collecting delinquent loans, except for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales.

The costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from sales proceeds are to be paid by the financing account. Capitalized costs are those that add value to property prior to sale. These costs are part of the cash flows that must be taken into account in determining subsidy costs (i.e., the estimated long-term cost to the Government of a direct loan or loan guarantee program, on a net present value basis, excluding administrative costs).

Examples of the costs of foreclosing, managing, and selling collateral that are excluded from administrative expenses if capitalized or routinely deducted from sales proceeds are:

- commercial sales commissions;
- closing fees;
- property taxes and fees to acquire clear title;
- property assessments;
- seller points;
- hazard insurance; and
- hazard claims.

Questions as to whether a specific cost should be capitalized or routinely deducted from the proceeds of sales should be directed to the OMB representative with primary budget responsibility for the credit account.

Exhibits 62A and 62B provide examples of direct loan and guaranteed loan activities financed by administrative expenses. See Exhibit 62C for the relationship between administrative expenses and non-administrative costs of credit activities in the program accounts and the financing accounts.

(b) **Location of Administrative Expenses.**—All administrative expenses of credit activities should be included as a separate amount in the appropriation language for the program account. The separate amount is intended to provide a measure of the total cost of administering the credit program. This amount should cover all of the administrative expenses for both pre-1992 and post-1991 direct loans and loan guarantees with one exception. If no post-1991 direct loans will be obligated or loan guarantees committed, and if terms and conditions of pre-1992 direct loans or loan guarantees are not modified, then administrative expenses will be included in the liquidating account. Administrative or other expenses for non-credit programs should not be covered by the appropriation for the program account.

Administrative expenses and subsidy costs will be accounted for separately in the program account. Amounts appropriated for administrative expenses may not be used for subsidy costs, and amounts appropriated for subsidy costs may not be used for administrative expenses.

(c) **Direct or Reimbursable Expenses.**—Administrative costs may be paid directly out of the program account as direct expenses; or they may be paid by the program account to another account, such as a salaries and expenses account, on a reimbursable basis. When the administrative expenses in the program account are on a reimbursable basis, the program account records an obligation and outlay and the receiving account records an offsetting collection.

62.6. Direct Loan Transactions.

The following terms and concepts apply to direct loan transactions.

(a) **Direct Loan.**—The term “direct loan” means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by a non-Federal lender. The term also includes the sale of a Government asset on credit terms of more than 90 days duration. The term does not include the acquisition of federally guaranteed

non-Federal loans in satisfaction of default or other guarantee claims (see section 62.6(b)) or the price support loans of the Commodity Credit Corporation.

(b) **Direct Loan Obligation.**—The term “direct loan obligation” means a legal or binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

Acquisitions of federally guaranteed non-Federal loans in satisfaction of default or other guarantee claims will *not* be recorded as new direct loan obligations. Instead, the amounts will be recorded:

(1) as obligations incurred for default claims in budget execution reports (see line 8a on page 2 of Exhibit 67E);

(2) in object class 42 (insurance claims and indemnities), rather than object class 33 (investments and loans); and

(3) as loans receivable from the public in tables on portfolio condition for financing accounts (see line 1510 on Exhibit 67B).

For those programs that were financed by the FFB prior to credit reform, pre-1992 loans made by the FFB on behalf of any agency will continue to be recorded as direct loans. Post-1991 loans will be treated in the same manner as loans financed by other means, i.e., the nonsubsidized portion will be financed through the financing accounts and the subsidy value will be paid by the agency program accounts to the financing accounts.

(c) **Financing authority.**—The term “financing authority (gross)” means the authority provided by the Act to incur obligations in a financing account. It consists of spending authority from offsetting collections credited to the account and authority to borrow from the Treasury. The spending authority from offsetting collections is the amount net of repayment of borrowing from the Treasury. See Exhibit 66B, lines 39.00 and 68.90.

(d) **Direct Loan Subsidy Cost.**—The term “direct loan subsidy cost” means the estimated long-term cost to the Government of a direct loan, calculated on a net present value basis, excluding administrative costs. Specifically, the cost of a direct loan shall be the net present value, at the time when the direct loan is *disbursed* from the financing account, of the following cash flows:

- (1) loan disbursements;
- (2) repayments of principal; and
- (3) payments of interest and other payments by or to the Government over the life of the loan after

adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

The subsidy cost will be estimated and an obligation recorded against budget authority (appropriations) in the credit program account when the direct loan obligation is incurred. Accounts payable (to the direct loan financing account) will be recorded in the amount of the estimated obligation. Total obligations for subsidy costs may not exceed the amount appropriated for this purpose. Technical factors for subsidy estimation, such as defaults, must be the same as those used for the loans in that risk category in estimating the subsidy cost for the President's budget for the fiscal year in which the subsidy was proposed, unless legislation has been enacted that changes the terms under which the program makes loans.

The discount rate used to calculate net present value will be the interest rate (yield) that is applicable to the quarter when the obligation is incurred, on marketable Treasury securities of similar maturity to the direct loan being obligated. The Department of the Treasury will provide the schedule of interest rates (yields) by maturity interval that is applicable to the new loan obligations incurred in each quarter. See section 62.4(i).

Separately, the total face value of all loans obligated may not exceed the limitation on direct loan obligations specified in the appropriations language.

When a direct loan is disbursed in more than one payment, the net present value will still be calculated when the obligation is incurred but will be estimated, using the same factors as described above, for each separate disbursement. The cost of the direct loan will be the sum of the net present value of each disbursement.

Once the subsidy cost is obligated in the credit program account, the subsidy cost will be an obligated balance until the direct loan, or a portion of the direct loan, is disbursed from the financing account. Accounts payable will be recorded in the amount of the obligation. At the time of disbursement an outlay will be recorded in the program account equal to the subsidy cost multiplied by the proportion of the loan being disbursed.

(e) **Direct loan financing transactions.**—When an obligation is recorded in the program account for the subsidy cost, an offsetting collection (accounts receivable) in an equal amount will be recorded in the appropriate cohort and risk category in the financing account. The offsetting collection provides the financing authority for a portion of the direct loan obligation. Permanent indefinite authority to borrow

from the Treasury provides the financing authority for the balance of the direct loan obligation.

Once the direct loan is obligated in the financing account, the direct loan obligation will be an obligated balance until the loan, or a portion of the loan, is disbursed. As the loan is disbursed, the financing account will receive payments from the credit program account equal to the subsidy cost (multiplied by the proportion of the loan being disbursed when several disbursements are made). These payments will be recorded in the financing account. The balance will be borrowed from Treasury. These transactions will be recorded in the appropriate financing tranche.

Funds will be borrowed from Treasury when the loan is *disbursed*. The interest rate (yield) to be paid to Treasury on this borrowing will be the interest rate (yield) that is applicable to the quarter when the direct loan is *disbursed*, on marketable Treasury securities of similar maturity to the direct loan for which the estimate is being made. (This is determined by the financing tranche, as explained in sections 62.4(c), 62.4(d), and 62.4(i).) The subsidy cost will not be reestimated at this time. If the rate (yield) at the time of disbursement differs from the rate (yield) at the time of obligation, a reestimate for the difference will be required in the following year (see section 62.8, "Reestimates").

(f) **Negative Subsidy Costs.**—The subsidy cost of direct loans may, in some cases, be estimated to be negative. Negative subsidies occur in cases where the present value of cash inflows to the Government exceeds the present value of cash outflows. In such cases appropriations bills must still provide specific authority before direct loans can be made. Providing such authority will generate proprietary receipts, which is one type of offsetting receipt. They are scored as negative budget authority and negative outlay for the agency and the budget function of the program.

If the estimated subsidy for a cohort is less than zero, the following treatment will apply:

- (1) a special fund receipt account for that program will be used;
- (2) an amount equal to the negative subsidy will be obligated in the financing account when the direct loan is obligated;
- (3) an amount equal to the negative subsidy will be paid from the financing account to the receipt account when the direct loan is disbursed;

(4) these payments will be recorded in the receipt account as proprietary receipts from the public; and

(5) these receipts will not be available for obligation or disbursement unless appropriated by law.

(g) **Non-subsidy collections.**—Repayments of direct loan principal, interest on direct loans, fees, proceeds from the liquidation of collateral assets, and other collections will be credited to the appropriate financing tranche in the financing account as offsetting collections. A separate accounting by type of collection must be maintained, and these amounts must be accounted for separately from offsetting collections of payments from the program account for subsidy costs. See subsection (e).

(h) **Payments of capitalized costs, interest, and borrowing from Treasury.**—All non-subsidy collections for a financing tranche in the financing account shall be used for the following purposes for that tranche and in the following order:

(1) to pay the capitalized costs of foreclosing, managing, and selling collateral assets acquired as the result of defaults on direct loans and costs that are routinely deducted from the proceeds from sales (see section 62.5 for items that qualify);

(2) to maintain an unobligated balance to pay such capitalized costs, if any;

(3) to make monthly payments of interest that accrue on borrowing from Treasury; and

(4) any remaining amounts are required to be used to make repayments of principal on amounts borrowed from Treasury. (These are to be paid semi-annually on March 31 and September 30.)

Financing authority derived from non-subsidy collections may not be used to finance new direct loans. Only financing authority derived from offsetting collections of payments from the program account for subsidy costs and authority to borrow from the Treasury may be used to finance direct loans.

The financing account is authorized to borrow from Treasury to finance capitalized costs and costs routinely deducted from the proceeds of sales if the collections and unobligated balances are not sufficient to cover such expenses.

62.7. Guaranteed Loan Transactions.

The following terms and definitions apply to guaranteed loan transactions.

(a) **Loan Guarantee.**—The term “loan guarantee” means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal

borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(b) **Loan Guarantee Commitment.**—The term “loan guarantee commitment” means a legal or binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

(c) **Financing authority.**—The term “financing authority (gross)” means the authority provided by the Act to incur obligations in a financing account. It consists of spending authority from offsetting collections credited to the account and authority to borrow from the Treasury. The spending authority from offsetting collections is the amount net of repayment of borrowing from the Treasury. See Exhibit 67B, lines 39.00 and 68.00.

(d) **Loan Guarantee Subsidy Cost.**—The term “loan guarantee subsidy cost” means the estimated long-term cost to the Government of a loan guarantee, calculated on a net present value basis, excluding administrative costs. Specifically, the cost of a loan guarantee shall be the net present value, at the time when a guaranteed loan is *disbursed* by the lender, of the following cash flows:

(1) estimated payments by the Government to cover defaults and delinquencies, interest subsidies, and other payments; and

(2) estimated payments to the Government including origination and other fees, penalties, and recoveries.

The subsidy cost will be estimated and an obligation recorded against budget authority (appropriations) in the credit program account when the loan guarantee *commitment* is made. Accounts payable (to the guaranteed loan financing account) will be recorded in the amount of the estimated obligation. Total obligations for subsidy costs may not exceed the amounts appropriated for this purpose. Technical factors for subsidy estimation, such as defaults, must be the same as those used for the loan guarantees in that risk category in estimating the subsidy cost for the President's budget for the fiscal year in which the subsidy was proposed, unless legislation has been enacted that changes the terms under which the program guarantees loans.

The discount rate used to calculate net present value will be the interest rate (yield) that is applicable to the quarter when the *commitment* is made, on marketable Treasury securities of similar maturity to the loan for which the guarantee is being committed.

The Department of the Treasury will provide the schedule of interest rates (yields), by maturity interval, that is applicable to the new commitments made in each quarter. See section 62.4(i).

Separately, the total face value of all loan guarantee commitments may not exceed a limitation on loan guarantee commitments specified in the appropriations language.

When a guaranteed loan is disbursed in more than one payment, the net present value will still be calculated when the commitment is made (and obligation is incurred) but will be estimated, using the same factors as described above, for each separate disbursement. The cost of the guarantee will be the sum of the net present values of each disbursement.

Once the subsidy cost is obligated in the credit program account, the subsidy cost will be an obligated balance until the guaranteed loan, or a portion of the guaranteed loan, is disbursed. Accounts payable will be recorded in the amount of the obligation. At the time of disbursement an outlay will be recorded in the program account equal to the subsidy cost multiplied by the proportion of the loan being disbursed.

(e) **Loan guarantee financing transactions.**—As a guaranteed loan is disbursed, the financing account will receive payments from the credit program account equal to the subsidy cost (multiplied by the proportion of the loan being disbursed, when several disbursements are made). These payments will be recorded as offsetting collections in the appropriate cohort, risk category, and financing tranche in the financing account and will be retained, as balances of the account, to finance a portion of the guarantee claim payments (or other payments) for that cohort of guaranteed loans. The balances will be carried as unobligated balances until obligations are incurred to make claim payments, to pay interest supplements, or to pay the capitalized costs of foreclosing, managing, and selling collateral assets acquired as a result of defaults on guaranteed loans and to pay the costs routinely deducted from the proceeds of sales. (See section 62.5 for costs that qualify.) When obligations are incurred, these amounts will be carried as obligated balances until payments are disbursed.

The balances will earn interest from the time that they are credited to the financing account, when the guaranteed loan is *disbursed*, until they are disbursed for claim payments (or other payments). The interest rate (yield) will be the interest rate (yield) that is applicable to the quarter when the guaranteed loan is *disbursed*, on marketable Treasury securities of similar

maturity to the guaranteed loan for which the estimate is being made. (This is determined by the financing tranche, as explained in sections 62.4(c), 62.4(e), and 62.4(i).) The subsidy cost will not be reestimated at this time. If the rate (yield) at the time of disbursement differs from the rate (yield) at the time of commitment, a reestimate for the difference will be required in the following year. See section 62.8, "Reestimates".

(f) **Negative Subsidy Costs.**—The subsidy cost of guaranteed loans may, in some cases, be estimated to be negative. In such cases appropriations bills must still provide specific authority before guarantees can be made. See section 62.6(f) for instructions on negative subsidy costs.

(g) **Non-subsidy collections.**—Loan guarantee fees, repayments of principal and interest on loans acquired by default, proceeds from the liquidation of collateral assets, and other collections will be credited to the appropriate cohort, risk category, and financing tranche in the financing account as offsetting collections. A separate accounting by type of collection must be maintained, and these amounts must be accounted for separately from offsetting collections of payments from the program account for subsidy costs.

62.8. Reestimates.

The subsidy cost of a cohort of direct loans or guaranteed loans (a cohort is defined in section 62.2) must be reestimated at the beginning of each fiscal year following the year in which the initial disbursement was made, as long as the loans are outstanding. Each risk category must be reestimated separately. The reestimate will be made using the same method as was used for the initial estimate. It will be compared with the previous estimate; for this purpose, all details of the original subsidy estimates and all subsequent reestimates should be retained in program records.

The reasons for observed or expected changes in cash flows that result in subsidy cost increases or decreases must be recorded. In particular, the record should indicate whether the changes in cash flows are expected to be temporary or permanent.

The reestimate made in the year following a direct loan or guaranteed loan disbursement will consist of two separate parts:

(1) Calculate the difference between:

(a) the initial subsidy cost estimate, for which the discount rate used was the interest rate that was applicable to the quarter when the direct loan was obligated or the loan guarantee was committed; and

(b) the subsidy cost estimate using the same cash flows that were used for the initial estimate, but using the interest rate that was applicable to the quarter of disbursement.

This part of the reestimate is necessary because the Act specifies that the interest rate prevailing at the time of disbursement must be used to determine the subsidy cost. However, for practical reasons, it is necessary at the time of obligation or commitment to use the interest rate prevailing then as an approximation of the interest rate that will prevail when the loan is disbursed. This reestimate adjusts for any difference in subsidy cost resulting from the difference in discount rates. Everything else is unchanged in the calculations. A reestimate for this purpose is made only in the year following a loan disbursement.

(2) Reestimate the net present value of the cash flows. Use the actual cash flows from the time of disbursement up to the time of reestimate, and reestimate future cash flows. Reestimates of future cash flows should take into account the actual experience with cash flows from disbursement to the time of reestimate, changes in economic assumptions, more refined technical analysis of expected defaults and delinquencies, etc. Calculate the net present value of the *reestimated* cash flows, as of the time of disbursement, over the entire term of the loan. Derive the difference between the net present value of the reestimated cash flows and the net present value of the cash flows that were originally estimated (using the same interest rate, the interest rate applicable to the quarter in which the direct loans or guaranteed loans were disbursed). Add to this difference the interest on this difference calculated from the time of disbursement to the time of reestimate. The sum is the total amount of the reestimate.

The reestimates made in subsequent years will be only for cash flows, as described in part (2) above. No reestimates will be made until the beginning of fiscal year 1993. OMB will provide more detailed instructions on calculating reestimates before that time.

All increases or decreases in subsidy cost for different risk categories *within the same cohort* will be netted out against each other; that is, risk categories which require increased subsidies may first draw on the excess from any risk categories within the cohort where the reestimate shows a subsidy decrease. No such netting may occur between cohorts.

If the reestimate indicates a net increase in the subsidy cost of the cohort as a whole since the last estimate, after transfers to any risk categories within the cohort where the reestimate indicates a decrease

in subsidy cost, the agency will request apportionment of the amount (including interest). After an amount is apportioned, an obligation in the amount of the net increase (including interest) must be recorded against permanent indefinite budget authority available to the program account for this purpose. Obligations for subsidy cost increases (including interest) resulting from reestimates must be recorded separately so that they can be distinguished from obligations for the initially estimated subsidy cost. An outlay will be made from the program account to the financing account at the time the reestimate is made.

At the time that an outlay is made from the credit program account, an offsetting collection will be recorded in the appropriate risk categories and financing tranches in the financing account. In the case of direct loans, the offsetting collections from the program account will be used, together with repayments from borrowers, to pay interest and repay principal on borrowing from Treasury and for other expenses. In the case of loan guarantees, the offsetting collections from the program account will be retained as unobligated balances, together with the unobligated balances of the original subsidy payment and fees, until needed to pay default claims and other expenses. The additional balances due to the reestimate will earn interest at the same rate as is paid on other funds held by the financing account for the same financing tranche as the original direct loan or loan guarantee.

If the reestimate indicates a net decrease in the subsidy cost of the cohort as a whole since the last estimate, after transfers to any risk categories within the cohort where the reestimate indicates an increase in subsidy cost, the agency will request an apportionment of the amount (including interest). After an amount is apportioned, an obligation in the amount of the net decrease (including interest) must be recorded in the financing account. In the case of a direct loan, the obligation will be recorded against authority to borrow from the Treasury. In the case of a loan guarantee, the obligation will be recorded against unobligated balances. In either case, an outlay will be made from the financing account to a special fund receipt account established for each credit program. The receipt will be recorded as an offsetting receipt, which will offset the total budget authority and outlays of the agency and the budget subfunction of the program. The receipts in the special fund will not be available for obligation for the subsidy costs of new direct loans and guaranteed loans unless appropriated by law.

62.9. Modifications.

The following terms and concepts apply to modifications of direct loans and loan guarantees.

(a) **Modification.**—The term “modification” means any Government action that alters the estimated net present value (subsidy cost) from the estimate contained in the most recent budget submitted to Congress of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment), except actions permitted within the terms of existing contracts. In addition, any action resulting from new legislation that directly or indirectly alters the subsidy cost of outstanding direct loans or loan guarantees—whether the alteration is within the terms of the contract or not—is a modification.

Additional disbursements that increase the amount of direct loans outstanding will be treated as new loans (not modifications) *in the amount of the increment*.

Modifications to pre-1992 direct loans and loan guarantees are included in this definition, as well as post-1991 direct loans and loan guarantees. Examples of *direct* modifications are forgiveness, forbearance, reductions in interest rate, prepayments without penalty, and extensions of maturity, except to the extent that such actions are permitted under the terms of an existing contract. *Direct modifications also include the sale of loan assets*. An example of an *indirect* modification is a statutory restriction on debt collection.

Subsidy estimates of the costs of actions that are permitted within the terms of existing contracts are not required for pre-1992 direct loans and loan guarantees. They are to be part of the calculation of the original subsidy cost estimate and of any re-estimates for post-1991 direct loans and loan guarantees.

The following instructions for estimating subsidies and recording transactions apply to direct modifications of direct loans and loan guarantees. Indirect modifications may require special treatment. The OMB representative with primary budget responsibility for the account will provide instructions on the treatment of indirect modifications or other unusual transactions.

(b) **Estimating the subsidy cost of the modification.**—When a direct loan or loan guarantee is modified, the subsidy cost of the modification must be estimated. The subsidy cost of the modification is the difference between the currently estimated net present value of the remaining cash flows under the terms

of the previously existing direct loan or guaranteed loan contract contained in the most recent budget submitted to Congress and the currently estimated net present value of the cash flows under the terms of the modified contract. Specifically, the subsidy cost is calculated as follows:

(1) Estimate the remaining cash flows expected under the loan contract terms assumed in the most recent budget submitted to Congress just before the modification. These estimates must assume the same deviations (defaults, delinquencies, etc.) from contract terms as assumed for the risk category in which the loan is classified.

(2) Discount the cash flows estimated in step 1 by the interest rate (yield) that is applicable to the quarter when the modification occurs, on marketable Treasury securities with a comparable maturity to the remaining maturity (not the original maturity) of the loan that is being modified.

(3) Estimate the cash flows expected under the modified contract terms. These estimates must assume the same deviations (defaults, delinquencies, etc.) from contract terms as assumed for the risk category in which the loan is classified.

(4) Discount the cash flows estimated in step 3 by the interest rate (yield) that is applicable to the quarter when the modification occurs, on marketable Treasury securities with a comparable maturity to the remaining maturity (not the original maturity) of the modified loan. (If a loan asset is sold, the estimated net present value of the cash flows under the terms of the modified contract equals the net proceeds from the sale.)

(5) Subtract the amount calculated in step 2 from the amount calculated in step 4 to produce the estimated subsidy cost resulting from the modification.

The results of this calculation will be positive or zero. A positive estimate would indicate that the Government will incur an additional subsidy cost because of the modification. A zero estimate would indicate that the modification will not increase the subsidy cost.

For more detailed guidance on calculating the subsidy for modifications, use the instructions that accompany the OMB subsidy model. These can be obtained from the OMB representative with primary responsibility for the credit account. The Department of the Treasury will provide the schedule of interest rates (yields), by maturity interval, for discounting cash flows. See section 62.4(i).

(c) **Credit program account transactions.**—At the time that a modification is made, an obligation in the amount of the estimated increase in subsidy cost must be recorded against budget authority in the credit program account. Modifications may be made only to the extent that apportioned budget authority is available in the credit program account to cover the obligation resulting from the modification. At the same time as the obligation is recorded, an outlay in the amount of the increase in the subsidy cost will be made from the program account to the financing account for direct loans or loan guarantees, as appropriate.

(d) **Financing account transactions.**—At the time that an outlay is made from the credit program account, an offsetting collection will be recorded in the financing account. The subsequent transactions depend on whether the associated modification is to a pre-1992 or post-1991 direct loan or loan guarantee.

(1) *Pre-1992.*—The existing direct loan asset or loan guarantee liability will be transferred from the liquidating account to the financing account, and a one-time adjusting payment will be made between the liquidating and financing accounts. The amount of the adjusting payment will be the currently estimated net present value of the Government's remaining cash flows under the terms of the previously existing contract. This amount is the result of the first two steps in estimating the subsidy cost of the modification, described in section 62.9(b).² All pre-1992 modifications for a given program will be accounted for in a single direct loan cohort or a single loan guarantee cohort.

In the case of direct loan modifications, where an asset is transferred from the liquidating account to the financing account, the adjusting payment will be made from the financing account to the liquidating account. An outlay will be recorded in the financing account in the amount of the payment when it is made; a corresponding offsetting collection will be recorded in the liquidating account. See exhibit 62D for an illustration of a modification of a pre-1992 direct loan. All of the offsetting collections received by the financing account from the program account for the subsidy cost of the modification will be used for the adjusting payment. The balance of the adjusting payment will be borrowed from Treasury at

the same interest rate that is used to calculate the present value of cash flows under the modified contract (see section 62.9(b)(4)). Offsetting collections from the direct loan assets over their remaining life will be credited to the financing account and used to pay interest on borrowing from Treasury and to repay the principal on such borrowing. In the liquidating account, the adjusting payment will be recorded as an offsetting collection and used to repay borrowing from Treasury or transferred to the general fund as a capital transfer (repayments of borrowing and capital transfers are not recorded in the budget as outlays or receipts).

In the case of a loan guarantee modification, where a liability is transferred from the liquidating account to the financing account, the adjusting payment will be made from the liquidating account to the financing account. Any unobligated balances of the liquidating account will be used to make the adjusting payment. If unobligated balances are insufficient, the permanent indefinite appropriation to the liquidating account will be used for the balance of the adjusting payment. An outlay will be recorded in the liquidating account in the amount of the payment when it is made. In the financing account, the payment will be received as an offsetting collection. The payment of the subsidy from the program account will also be received as an offsetting collection. The offsetting collections (both the adjusting payment and the subsidy) will be retained in the balances in the financing account until needed to pay default claims and other expenses. The balances will constitute a financing tranche, earning interest at the same rate that is used to calculate the present value of cash flows under the modified contract (see section 62.9(b)(4)).

(2) *Post-1991.*—In the case of direct loans, the offsetting collections from the program account will be credited to the cohort, risk category, and financing tranche of the original guaranteed loan, and will be used, together with repayments from borrowers, to pay interest and repay principal on borrowing from Treasury and for other expenses.

In the case of loan guarantees, the offsetting collections from the program account will be credited to the cohort, risk category, and financing tranche of the original guaranteed loan, and will be retained as

² The one-time payment procedure is a change from the procedure assumed for the 1992 *Budget*. For that *Budget*, it was assumed that the liquidating account would be reimbursed from the financing account for cash losses as they occurred, over the remaining life of the contract. The net total of one-time adjusting payments in any year may affect the budget deficit. However, this accounting change will not be counted for purposes of the Budget Enforcement Act of 1990 controls, in accordance with the Act itself.

unobligated balances, together with the unobligated balances of the original subsidy payment and fees, until needed to pay default claims and other expenses. The additional balances due to the modification will earn interest at the same rate as is paid on other funds held by the financing account for the same financing tranche as the original loan guarantee.

Guidance on modifications that do not involve changes in terms of the contract will be provided by the OMB representative with primary budget responsibility for the credit account.

62.10. The Credit Subsidy Model.

The Credit Subsidy Model will be used for estimating credit subsidies to ensure comparability and uniformity among all Federal credit program subsidy estimates and between budget formulation and execution. Detailed instructions on estimating the subsidy for budget execution will accompany the model. Technical support for estimating subsidies and a PC disk containing the computer model can be obtained from the Budget Analysis and Systems Division, OMB (phone (202) 395-3930).

63.0. Fund Control and Credit Accounting Systems.

This section provides specific rules for credit accounting and fund control systems. Part III provides general procedures for agency accounting and fund control systems. To the extent that the instructions in this section differ from the instructions in Part III, the instructions in this section supersede those in Part III.

63.1. Review and Approval of Credit Fund Control Systems.

The head of each agency is required by law to prescribe by regulation a system of administrative control of funds (see section 31.3). For credit programs, the agency's fund control system is required:

(a) to restrict both obligations and expenditures from each program account, financing account, and liquidating account to the lesser of:

(1) the amounts available for administrative expenses, direct loan subsidies, direct loan levels, guaranteed loan subsidies, guaranteed loan levels, and any limitations specified in law; or

(2) the amounts apportioned for the amounts specified above.

(b) to enable the head of the agency to determine responsibility for an obligation or expenditure exceeding the categories specified above.

The agency fund control regulations are now required to be revised for the new requirements imposed by the Act. Agency fund control regulations must be approved by OMB (see section 31.5).

The head of each agency administering one or more credit programs is required to resubmit for approval draft agency fund control regulations that reflect the new credit requirements and the new functional requirements in Appendices C and D of this part. The draft shall be submitted to OMB within 30 days of issuance of this document.

63.2. Requirements to Report Antideficiency Act Violations.

In accordance with the instructions in section 32.2, the agency head will furnish to the President, through the Director of OMB, and to the Congress, information on Antideficiency Act violations. For all direct loan and guaranteed loan program and financing accounts, this includes violations of the following nature:

(1) *Overobligation or overexpenditure of the subsidy.*—This is any case where an officer or employee of the United States has made or authorized an expenditure or created or authorized an obligation, including a commitment, that is in excess of:

- (a) the direct loan subsidy.
- (b) the guaranteed loan subsidy.

Modifications of direct loans or loan guarantees, as defined in section 62.9, that result in obligations in excess of apportioned unobligated balances of subsidy amounts are violations.

(2) *Overobligation or overexpenditure of the credit level supportable by the enacted subsidy.*—This is any case where an officer or employee of the United States has made or authorized an expenditure or created or authorized an obligation, including a commitment, that is in excess of the credit program level supportable by the enacted subsidy, regardless of whether the subsidy is positive or negative. This includes obligations or expenditures that are in excess of:

- (a) the direct loan level;
- (b) the guaranteed loan level; or
- (c) any limitations on the loan level or the Federal share of guaranteed loan levels.

(3) *Overobligation or overexpenditure of the amount appropriated for administrative expenses.*—This is any case where an officer or employee of the United States has

made or authorized an expenditure or created or authorized an obligation, including a commitment, that is in excess of the amount appropriated for administrative expenses.

(4) *Obligation or expenditure of the lapsed unobligated balance of the subsidy, except to correct mathematical or data input errors in calculating subsidy amounts.*—This is any case where an officer or employee of the United States has made or authorized an expenditure or created or authorized an obligation, including a commitment, against unobligated subsidy balances after the period of obligational authority has expired. Correction of mathematical or data input errors up to the amount of the lapsed unobligated balance of the subsidy are specifically exempted. Corrections of these errors in excess of the amount of the lapsed unobligated balance of the subsidy are violations.

63.3. Credit Accounting Systems.

Accounting systems are required to meet the functional requirements for direct loans that are specified in Appendix C and the functional requirements for loan guarantees that are specified in Appendix D.

Pages 1 and 2 of Exhibit 63 provide illustrations of two possible combinations of cohorts, risk categories, and tranches to assist system designers.

64.0. Credit Apportionment and Reapportionments.

64.1. Basis for Apportionment.

Unless specifically exempted by OMB, all program, financing, and liquidating accounts will be apportioned.

The apportionment document signed by the responsible OMB officials and all attachments transmitted to the agency are a part of the apportionment, unless otherwise specified on the apportionment document.

64.2. Timing of Requests.

Consistent with section 44.2, initial apportionment requests for direct loans and guaranteed loans will be submitted to OMB within 10 calendar days after the enactment of the appropriations act.

Requests for reapportionment will be submitted to OMB as soon as a change in the previous apportionment becomes necessary due to changes in amounts available, program requirements, or other factors.

Reapportionment requests made specifically for reestimates due to a change in the Treasury rate

(yield) between the time of obligation and the time of disbursement will be submitted to OMB in the year following disbursement.

Reapportionment requests will be required for subsidy reestimates (see section 62.8) and modifications (see section 62.9)

64.3. Types of Apportionment.

Credit accounts will be apportioned in the same manner as non-credit accounts. This means that the credit accounts may be apportioned by time periods or by categories, or by a combination of time periods and categories, as determined by OMB.

64.4. Reporting Format and Procedures.

Unless otherwise specified by OMB, an original and one copy of an apportionment form will be submitted to OMB. The original will be signed by an officer duly authorized by the head of the agency.

The standard form 132 will continue to be used for liquidating accounts. For program accounts that contain credit administrative expenses for both direct loans and guaranteed loans:

- standard form 142DL for direct loans will be used to apportion the direct loan subsidy, all administrative expenses in the program account, and the amounts in the corresponding direct loan financing account; and
- standard form 142GL for guaranteed loans will be used to apportion the loan guarantee subsidy in the program account and the amounts in the corresponding guaranteed loan financing account.

For program accounts that contain credit administrative expenses for guaranteed loans only, standard form 142GL for guaranteed loans will be used to apportion the administrative expenses, the subsidy for the loan guarantees in the program account, and the amounts in the corresponding guaranteed loan financing account.

65.0. Reports on Credit Execution.

65.1. Coverage.

Unless otherwise specified by OMB, credit execution reports will be prepared by all agencies to provide current data on each credit account, whether or not apportioned. Expired accounts will be included on the same form as the unexpired account (or accounts) of the same title.

65.2. Timing of Reports.

Reports on credit execution will be submitted within 20 days after the close of each calendar month or such other time period specified by OMB.

65.3. Supporting Data.

The credit execution reports will be accompanied by data supporting the various lines, including data on risk categories or financing tranches, whenever such data are required by OMB.

65.4. Reporting Format and Procedures.

For liquidating accounts, continue to use standard form 133.

For program accounts that contain credit administrative expenses for both direct loans and guaranteed loans:

- standard form 143DLP for direct loans will be used to report data on the direct loan subsidy and all administrative expenses in the program account; and
- standard form 143GLP for guaranteed loans will be used to report data on the loan guarantee subsidy in the program account.

For program accounts that contain credit administrative expenses for guaranteed loans only, standard form 143GLP for guaranteed loans will be used to report data on the administrative expenses and the subsidy for the loan guarantees in the program account.

For financing accounts, credit execution data will be reported at the account level, except that data will be reported by cohort for the final report for the year only. For direct loan financing accounts, use standard form 133DLF. For guaranteed loan financing accounts, use standard form 133GLF.

65.5. Number of Copies and Signature.

An original and one copy of the appropriate version of the SF 143 or an approved substitute will be submitted directly to the OMB program division that has primary responsibility for reviewing the agency's budget. The original will be signed by an officer duly authorized by the head of the agency.

³ This information is provided here for illustrative purposes only. Refer to the most recently published *OMB Circular No. A-11* for instructions on the preparation of budget formulation materials.

⁴ Special computations will be necessary. See *OMB Circular No. A-11* for instructions.

65.6. Refunds.

Refunds of obligations that were incurred erroneously in the current fiscal year will be netted against line 8, obligations incurred. Refunds of obligations incurred in prior fiscal years will be placed on line 4, recoveries of prior year obligations. These must be reappropriated before they can be used.

66.0. Direct Loan Line Entries and Exhibits.

This section provides explanations of the line entries for the apportionment and reappropriation schedules (SF 142DL for direct loans) and the reports on credit execution (SF 143DLP and SF 143DLF) for direct loans. This section also provides illustrations on the use of the budget execution information in relationship to the budget formulation information in the President's Budget.³ The following is a list of the exhibits for this section:

- Exhibit 66A provides an illustration of information transmitted in the budget for a direct loan program account. This includes:
 - sample appropriation language;
 - a Program and Financing schedule; and
 - a Summary schedule.
- Exhibit 66B provides an illustration of information transmitted in the budget for a direct loan financing account. This includes:
 - a Program and Financing schedule;
 - a Table of Portfolio Condition, Credit Reform Valuation;⁴ and
 - a Status of Direct Loans schedule.
- Exhibit 66C provides an illustration of the initial apportionment (SF 142DL) for the direct loan program account and financing account.
- Exhibit 66D provides a simple illustration to follow for a reestimate when the interest rate changes between the time of obligation and the time of disbursement of a direct loan.
- Exhibit 66E provides an illustration of the end of year credit execution report (SF 143DLP) for the same direct loan activities in the program account illustrated in Exhibit 66A and apportioned as illustrated in Exhibit 66C.
- Exhibit 66F provides an illustration of the end of year credit execution report (SF 143DLF) for the same direct loan activities in the financing

account illustrated in Exhibit 66B and apportioned as illustrated in Exhibit 66C.

- Exhibit 66G provides an illustration of the impact on that program account of a subsidy reestimate due to an interest rate change between obligation and disbursement in the previous year. Also, Exhibit 66G provides an illustration of the disbursement of the rest of the obligated balances in the second year after obligation.
- Exhibit 66H illustrates the impact on that financing account of the subsidy reestimate and disbursement in Exhibit 66G.

66.1. Direct Loan Apportionment and Reapportionment Schedule (SF 142DL) and Line Entries.

The schedule simultaneously apportions the direct loan program account and financing account (see exhibit 66C).

From top to bottom, the schedule is divided into two major sections. The top section is called "Federal Resources". It presents information on the budgetary

resources available to the accounts. The bottom section is called "Application of Resources". It presents the amounts apportioned.

From left to right, the schedule is divided into three major sections: the amounts on the previous apportionment (if any); the agency request (if any); and the amounts apportioned by OMB. Within each of the three major sections, there are two columns: one for the program account and one for the financing account.

The following explanation of the line entries for the direct loan apportionment and reapportionment schedule (SF 142DL) covers the specific lines and rules that are unique to direct loan program and financing accounts. Part IV provides general procedures, line entries, and rules for apportionment and reapportionment schedules. To the extent that additional lines are needed, use the stub entries and definitions provided in Part IV upon approval of the OMB representative with primary budget responsibility for the account.

SF 142DL APPORTIONMENT OF DIRECT LOAN PROGRAM AND FINANCING ACCOUNTS

Line Entry	Explanation
FEDERAL RESOURCES	
Line 1. Budget and Financing Authority:	
a. Subsidy: current definite	Enter the amount of definite appropriations for direct loan subsidies that is specified in an appropriation act and becomes available on or after October 1 of the fiscal year. This amount will be used to pay the financing account the subsidy to make new loans and modifications.
b. Subsidy: current indefinite	Enter the amount of indefinite appropriations for direct loan subsidies for entitlement programs that is specified in an appropriation act and becomes available on or after October 1 of the fiscal year.
c. Administrative expenses	Enter the amount of appropriations for administrative expenses that is specified in an appropriations act and becomes available on or after October 1 of the fiscal year.
d. Subsidy: permanent indefinite	Enter the amount of permanent indefinite appropriations estimated to be required for increases in subsidy cost discovered by reestimates.
e. Permanent indefinite authority to borrow	Enter the amount of permanent indefinite authority to borrow from the Treasury that when added to the subsidy will equal the amount apportioned for direct loans on line 8.B.(2) <ul style="list-style-type: none"> • to pay interest to Treasury in the absence of adequate cashflow at the start of a loan cycle; • to pay the costs of foreclosing, managing, or selling collateral that are not capitalized or routinely deducted from sales proceeds when amounts set aside for collection are inadequate; and • to pay the liquidating account when modifications to pre-1992 are apportioned.
Line 3. Offsetting collections from:	
a. Non-Federal sources:	
(1) Fees collected	Enter the amount of fees collected.
(2) Collections of principal	Enter the amount of repayments of principal collected from borrowers.
(3) Collections of interest	Enter the amount of interest collected from borrowers.

(4) Proceeds from collateral	Enter the amount of proceeds from collateral collected. This amount should be gross of the amounts that are routinely deducted from the proceeds of sales and the costs of foreclosing, managing, and selling collateral that are capitalized.
(5) Earned or anticipated but not collected	Enter the amounts that have been earned but not yet collected or that are anticipated to be credited to this account for items (1) through (4) above during the current fiscal year but not collected. As these amounts are collected they should be reported on lines (1) through (4) above and deducted from this line.
b. Federal sources:	
(1) Subsidy: current definite	Enter the amount of current definite appropriations for new and modified direct loan subsidies collected from the program account.
(2) Subsidy: permanent, indefinite	Enter the amount of permanent appropriations for subsidy reestimates collected from the program account.
(3) Subsidy: current, indefinite	Enter the amount of current indefinite appropriations for new and modified direct loan subsidies collected from the program account.
(4) Interest from Treasury	Enter the amount of interest collected from Treasury.
(5) Accounts receivable	Enter the amount of receivables from other Federal government accounts that are anticipated to be credited to this account during the current fiscal year; provided that the amount is a valid obligation in the paying account.
Line 4. Recoveries from prior year obligations:	
a. Actual	Enter the amount of recoveries of obligations incurred in prior fiscal years.
b. Anticipated	Include <i>refunds</i> (of obligations incurred in prior fiscal years, see section 65.6) when the refunds are collected.
Line 6. Portion applied to debt reduction:	
a. Paid (-)	Enter the amount (as a negative) of principal repayments paid to Treasury of borrowing from Treasury.
b. Accounts payable (-)	Enter the amount (as a negative) of principal repayments to be paid to Treasury of borrowing from Treasury.
Line 7. Total Resources	Enter the sum of lines 1 through 6.

APPLICATION OF RESOURCES

Line 8. Apportioned:	The OMB representative with budget responsibility for the account will determine the level of detail necessary and will enter the amounts apportioned. The illustration in exhibit 66C is the minimum necessary.
Category A:	
(1) First quarter . . .	
(2) Second quarter . . .	
(3) Third quarter . . .	
(4) Fourth quarter . . .	
Category B:	
(1) Direct loan subsidy	Enter the amount of the apportionment request for direct loan subsidy to be paid to the financing account and the amount apportioned. If part of the request is for modifications to loans, as defined in section 62.9, then footnote this line. In the footnote, specify the amount on this line for modifications.
(2) Direct loan level	Enter the amount of the apportionment request for direct loans.
(3) Interest to Treasury	Enter the amount of the apportionment request for payments of interest to Treasury.
(4) Administrative expenses	Enter the amount of the apportionment request for administrative expenses.
(5) Capitalized costs, etc.	Enter the amount of the apportionment request for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales.
(6) Payments to liquidating account	Enter the amount of the apportionment request for the financing account to pay the liquidating account for pre-1992 loans that are modified.
(7) Payments to receipt accounts	Enter the amount requested to be paid to a special fund receipt account for downward reestimates of the subsidy.
Line 12. Total Resources	Enter the sum of lines 8 through 11.

66.2. Recording Obligations, Disbursing Loans, and Reestimating Subsidies.

Exhibit 66D provides a simple illustration to follow when the interest rate changes between the time of obligation and the time of disbursement of a direct loan. Note that the subsidy amount is not recalculated at the time of loan disbursement. Rather, any change in estimated subsidy caused by an interest rate change is made at the beginning of the fiscal year after the fiscal year in which the loan is disbursed. If, at that time, the subsidy amount increases, a reapportionment request is needed to fund the increase. The permanent indefinite appropriations will be used to fund the increase. If the subsidy amount decreases, a payment will be made to a special fund receipt account. See section 62.8 for additional details on reestimates.

66.3. Reports on Execution—Direct Loans.

There will be two separate reports, SF 143DLP for the program account (exhibit 66E) and SF 143DLF for the financing account (exhibit 66F).

From top to bottom, the schedule is divided into three major sections. The top section is called "Federal Resources". It presents information on the budgetary resources available to the accounts. The middle section is called "Status of Resources". It

provides information on the obligations that were incurred and the available balances. The bottom section is called "Relation of Obligations to Outlays" on the SF 143DLP and "Relation of Obligations to Disbursements" on the SF 143DLF. It represents the cost to the taxpayers of the activities in this account.

From left to right, the first column in the schedule presents the total for the account as a whole. The other columns differ for the program account and the financing account because the program account, which is an annual appropriation, expires for purposes of new obligations; while the financing account, which is a no-year account, does not. Therefore, the program account presents the unexpired year in the second column and the expired years in subsequent columns. The financing account presents the information by cohorts.

(a) **Program Accounts.**—The following explanation of the line entries for the credit execution reports covers the specific lines and rules that are unique to direct loan program accounts (see exhibit 66E). Part V provides general procedures, line entries, and rules for budget execution reports. To the extent that additional lines are needed, use the stub entries and definitions provided in Part V upon approval of the OMB representative with primary budget responsibility for the account.

SF 143DLP EXECUTION REPORTS FOR DIRECT LOAN PROGRAM ACCOUNTS

Line Entry	Explanation
FEDERAL RESOURCES	
Line 1. Budget and Financing Authority:	
a. Subsidy: current definite	Enter the amount of definite appropriations for direct loan subsidies that is specified in an appropriation act and becomes available on or after October 1 of the fiscal year. To the extent that an amount has been provided for modifications, footnote the total. In the footnote specify the amount provided for modifications.
b. Subsidy: current indefinite	Enter the amount of indefinite appropriations for direct loan subsidies for entitlement programs that is specified in an appropriation act and becomes available on or after October 1 of the fiscal year.
c. Administrative expenses	Enter the amount of appropriations for administrative expenses that is specified in an appropriations act and becomes available on or after October 1 of the fiscal year.
d. Subsidy: permanent indefinite	Enter the amount of permanent indefinite appropriations that was apportioned for increases in subsidy reestimates.
Line 7. Total Resources	Enter the sum of the amounts shown on lines 1 through 6.
STATUS OF RESOURCES	
Line 8. Obligations incurred:	
a. Direct loan subsidy	Enter the subsidy cost as an obligation when the loan is obligated. For instructions on calculating the direct loan subsidy, see section 62.6. When the subsidy cost is obligated on this line, it will be shown as an obligated balance, end-of-period (on line 13.b), until the loan is disbursed. Record accounts payable in the amount of the obligation.

	When the loan is disbursed, enter an outlay on line 14. The amount of the outlay will be equal to the subsidy cost multiplied by the proportion of the loan being disbursed. Reduce the end of period obligated balance on line 13.b by the amount of the outlay. Note: the total face value of all loans obligated may not exceed the limitation on direct loan obligations specified in the appropriations language.
b. Administrative expenses	Enter the obligations incurred for administrative expenses. See section 62.5 for amounts that may be properly reported on this line.
c. Subsidy for modifications	Enter the obligations incurred for modifications. To calculate the subsidy, see section 62.9(b).
d. Subsidy for reestimates	Enter the obligations incurred for increases in subsidy cost discovered by reestimates. To calculate the reestimate, see section 62.8.
Line 9. Unobligated balances available:	There should be no unobligated balances of subsidy reestimates. The obligations and outlays for reestimates should occur simultaneously.
a. Direct loan subsidy	Enter the unobligated balance of the amount apportioned for direct loan subsidy.
b. Administrative expenses	Enter the unobligated balance of the amount apportioned for administrative expenses.
c. Modifications	Enter the unobligated balance of the amount apportioned for modifications.
Line 11. Total Resources	Enter the sum of the amounts on lines 8 through 10. This amount will be identical to the amount on line 7.

(b) **Financing Accounts.**—The following explanation of the line entries for the credit execution reports covers the specific lines and rules that are unique to direct loan financing accounts (see exhibit 66F). Part V provides general procedures, line entries,

and rules for budget execution reports. To the extent that additional lines are needed, use the stub entries and definitions provided in Part V upon approval of the OMB representative with primary budget responsibility for the account.

SF 143DLF EXECUTION REPORTS FOR DIRECT LOAN FINANCING ACCOUNTS

Line Entry	Explanation
FEDERAL RESOURCES	
Line 1. Financing authority:	
a. Permanent indefinite authority to borrow	Enter the amount of permanent indefinite authority to borrow from the Treasury that has been apportioned on the latest SF 142.
Line 3. Offsetting collections from:	
a. Non-Federal sources:	
(1) Fees collected	Enter the amount of fees collected.
(2) Collections of principal	Enter the amount of repayments of principal collected.
(3) Collections of Interest	Enter the amount of interest collected.
(4) Proceeds from Collateral	Enter the amount of proceeds from collateral collected. This amount should be gross of the amounts that are routinely deducted from the proceeds of sales and the costs of foreclosing, managing, and selling collateral that are capitalized.
(5) Earned or anticipated but not collected	Enter the amounts that have been earned but not yet collected or that are anticipated to be credited to this account for items (1) through (4) above during the current fiscal year but not collected. These are non-add items and should be placed in parentheses.
b. Federal sources:	
(1) Subsidy: current definite	Enter the amount of payments from current appropriations for new and modified direct loan subsidies collected from the program account.
(2) Subsidy: permanent indefinite	Enter the amount of payments from permanent appropriations for subsidy reestimates collected from the program account.
(3) Interest from Treasury	Enter the amount of interest collected from Treasury.
(4) Accounts receivable	Enter the amount of receivables from other Federal government accounts provided that a valid obligation has been incurred and recorded against the other account.
Line 6. Portion applied to debt reduction:	
a. Paid (-)	Enter the amount (as a negative) of principal repayments paid to Treasury.
b. Accounts payable (-)	Enter the amount (as a negative) of principal repayments that are to be paid to Treasury at the next semi-annual pay period.

Line 7. Total Resources Enter the sum of lines 1 through 6.

STATUS OF RESOURCES

Line 8. Obligations incurred for:

- | | |
|------------------------------------|--|
| a. Direct loan level | Enter the amount of direct loans for which obligations have been incurred. |
| b. Interest payments to Treasury | Enter the amount of interest owed to Treasury for the reporting period, including amounts paid. |
| c. Capitalized costs, etc. | Enter the amount of obligations for the cost of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales. |
| d. Payments to liquidating account | Enter the amount of obligations for pre-1992 loans that are modified. |
| e. Payments to receipt account | Enter the amount of obligations for payments to a special fund receipt account for downward reestimates of the subsidy. |

Line 9. Unobligated balances available:

- | | |
|------------------------------------|--|
| a. Direct loan level | Enter the unobligated balance of the amount apportioned for direct loans. |
| b. Interest payments to Treasury | Enter the unobligated balance of the amount apportioned for interest owed to Treasury. |
| c. Capitalized costs, etc. | Enter the unobligated balance of the amount apportioned for the cost of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales. |
| d. Payments to liquidating account | Enter the amount of unobligated balance apportioned for pre-1992 loans that are modified. |
| e. Payments to receipt account | Enter the amount of unobligated balances for payments to a special fund receipt account for downward reestimates of the subsidy. |

Line 10. Unobligated balances not available:

- | | |
|--|--|
| a. Apportioned for subsequent period | Enter the amount apportioned by time periods that will not become available until after the reporting period, as approved on the most recent SF 142. |
| b. Withheld pending rescission | For instructions on the use of this line, see Part VII. |
| c. Deferred | For instructions on the use of this line, see Part VII. |
| d. Unapportioned balance of revolving fund | Enter the amount shown on line 10.d of the SF 142. |

Line 11. Total Resources Enter the sum of the amounts shown on lines 8 through 10.

RELATION OF OBLIGATIONS TO DISBURSEMENT

Line 12. Obligations incurred, net Take the sum of the amount on line 8 and subtract the sum of the amounts on line 3 and line 4A.

Line 13. Net unpaid obligations:

- | | |
|--|---|
| a. Obligated balances, as of October 1 | Enter the obligated balances at the beginning of the fiscal year. |
| b. Obligated balances, net transferred | Enter the net transfers as a + or -. |
| c. Obligated balances, end of period | Enter the obligated balances at the end of the reporting period. |

Line 14. Outlays Take the amount on line 12, add the amount on line 13A and 13B (if the amount on this line is a negative)

67.0. Guaranteed Loan Line Entries and Format.

This section provides explanations of the line entries for the apportionment and reapportionment schedules (SF 142 for guaranteed loans) and the report on credit execution (SF 143 for guaranteed loans). This section also provides illustrations on the use of the budget execution information in relationship to the budget formulation information in the President's Budget.⁵ The following is a list of the exhibits in this section:

—Exhibit 67A provides an illustration of budget information for a guaranteed loan program account. This includes:

- sample appropriation language;
- a Program and Financing schedule; and
- a Summary schedule.

—Exhibit 67B provides an illustration of budget information for a guaranteed loan financing account. This includes:

- a Program and Financing schedule;

⁵ This information is provided here for illustrative purposes only. Refer to the most recently published *OMB Circular No. A-11* for instructions on the preparation of budget formulation materials.

- a Table of Portfolio Condition, Credit Reform Valuation;⁶
- a Status of Guaranteed Loans schedule; and
- a Statement of Contingent Liability which is an informational table.
- Exhibit 67C provides an illustration of an initial apportionment of the guaranteed loan program account and financing account.
- Exhibit 67D provides an illustration of a final (end of year) credit execution report for the guaranteed loan program account.
- Exhibit 67E provides an illustration of a final (end of year) credit execution report for the guaranteed loan financing account.

67.1. Guaranteed Loan Apportionment and Reapportionment Schedule (SF 142GL) and Line Entries.

The schedule simultaneously apportions the guaranteed loan program account and financing account (see exhibit 67C).

From top to bottom, the schedule is divided into two major sections that are divided by a double line.

The top section apportions the program level. It is divided into two sections. The first of these is called "Program Level". It provides information on the total guaranteed loan commitments that are supportable by

the enacted subsidy and the maximum Federal participation that is supportable by the enacted subsidy. The second, called "Application", shows the amount apportioned.

The bottom apportions the Federal resources. It is divided into two sections. The first is called "Federal Resources". It presents information on the budgetary and financing resources available to the accounts. The other section, called "Application", presents the amounts apportioned.

From left to right, the schedule is divided into three major sections: the amounts on the previous apportionment (if any); the agency request (if any); and the amounts apportioned by OMB. Within each of the three major sections, there are two columns: one for the program account and one for the financing account.

The following explanation of the line entries for the credit apportionment and reapportionment schedule (SF 142GL for guaranteed loans) covers the specific lines and rules that are unique to guaranteed loan program and financing accounts. Part IV provides general procedures, line entries, and rules for apportionment and reapportionment schedules. To the extent that additional lines are needed, use the stub entries and definitions provided in Part IV upon approval of the OMB representative with primary budget responsibility for the account.

SF 142GL APPORTIONMENT FOR GUARANTEED LOAN PROGRAMS PROGRAM AND FINANCING ACCOUNTS

Line Entry	Explanation
PROGRAM LEVEL	
Line 1. Guaranteed loan levels	Enter the total amount of guaranteed loan commitments supportable by the subsidy budget authority for new commitments, or in the case of negative subsidies, the amount authorized by appropriations acts.
Line 2. Federal share supportable by subsidy	Enter the total amount of the Federal Government's maximum participation in the amount on line 1 above.
APPLICATION	
Line 3. Apportioned:	The OMB representative with budget responsibility for the account will determine the level of detail necessary. The illustration in exhibit 67C is the minimum necessary.
Category A:	
(1) First quarter . . .	
(2) Second quarter . . .	
(3) Third quarter . . .	
(4) Fourth quarter . . .	

⁶ Special computations will be necessary. See *OMB Circular No. A-11* for instructions.

Category B:

- | | |
|----------------------------|--|
| (1) Guaranteed loan levels | Enter the amount of the apportionment request for the guaranteed loan level and the amount apportioned. |
| (2) Federal share | Enter the amount of the apportionment request for the Federal share supportable by the subsidy and the amount apportioned. |

FEDERAL RESOURCES

Line 1. Budget and Financing Authority:

- | | |
|---|---|
| a. Subsidy: current definite | Enter the amount of definite appropriations for guaranteed loan subsidies that is specified in an appropriation act and becomes available on or after October 1 of the fiscal year. |
| b. Subsidy: current indefinite | Enter the amount of indefinite appropriations for guaranteed loan subsidies provided in an appropriation act and becomes available on or after October 1 of the fiscal year. |
| c. Administrative expenses | Enter the amount of appropriations for administrative expenses that is specified in an appropriations act and becomes available on or after October 1 of the fiscal year. |
| d. Subsidy: permanent indefinite | Enter the amount of permanent indefinite appropriations estimated to be required for subsidy reestimates. |
| e. Permanent indefinite authority to borrow | Enter the portion of the apportioned permanent indefinite authority to borrow from Treasury that was used. |

Line 3. Offsetting collections from:

- | | |
|---|---|
| a. Non-Federal sources: | |
| (1) Fees collected | Enter the amount of fees collected from borrowers. |
| (2) Collections of principal | Enter the amount of repayments of principal collected. |
| (3) Collections of interest | Enter the amount of interest collected. |
| (4) Proceeds from collateral | Enter the amount of proceeds from collateral collected. This amount should be gross of the amounts that are routinely deducted from the proceeds of sales and the costs of foreclosing, managing, and selling collateral that are capitalized. |
| (5) Earned or anticipated but not collected | Enter the amounts that have been earned but not yet collected or that are anticipated to be credited to this account for items (1) through (4) above during the current fiscal year but not collected. As these amounts are collected they should be reported on lines (1) through (4) above and deducted from this line. |
| b. Federal sources: | |
| (1) Subsidy: current definite | Enter the amount of current appropriations for guaranteed loan subsidies collected from the program account. |
| (2) Subsidy: permanent indefinite | Enter the amount of permanent appropriations for subsidy reestimates collected from the program account. |
| (3) Interest from Treasury | Enter the amount of interest collected from Treasury. |
| (4) Accounts receivable | Enter the amount of receivables from other Federal government accounts that are anticipated to be credited to this account through the current fiscal year. |
| (5) Subsidy: current indefinite | Enter the amount of indefinite appropriations for guaranteed loan subsidies provided in an appropriation act and becomes available on or after October 1 of the fiscal year. |
| (6) Payments from liquidating accounts | Enter the amount of payments received from liquidating account for pre-1992 guarantees that are modified. See section 62.9. |

Line 6. Portion applied to debt reduction:

- | | |
|-------------------------|---|
| a. Paid (-) | Enter the amount (as a negative) of principal repayments paid to Treasury during the fiscal year. |
| b. Accounts Payable (-) | Enter the amount (as a negative) of principal repayments to be paid to Treasury. |

Line 7. Total Resources

Enter the sum of lines 1 through 6.

APPLICATION OF RESOURCES

Line 8. Apportioned:

The OMB representative with budget responsibility for the account will determine the level of detail necessary. The illustration in exhibit 66C is the minimum necessary.

Category A:

- | |
|--------------------------|
| (1) First quarter . . . |
| (2) Second quarter . . . |
| (3) Third quarter . . . |
| (4) Fourth quarter . . . |

Category B:

- (1) Guaranteed loan subsidy
 - (a) Current definite
 - (b) Current indefinite
 - (c) Permanent indefinite

Enter the amount of the apportionment request for guaranteed loan subsidy and the amount apportioned by type.

- (2) Default claims

Enter the amount of the apportionment request for default claims and the amount apportioned.

- (3) Interest to Treasury

Enter the amount of the apportionment request for payments of interest to Treasury and the amount apportioned.

- (4) Administrative expenses

Enter the amount of the apportionment request for administrative expenses and the amount apportioned.

- (5) Capitalized costs, etc.

Enter the amount of the apportionment request for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales and the amount apportioned.

- (6) Interest supplements

Enter the amount of the apportionment request for interest supplements and the amount apportioned.

- (7) Payments to receipt account

Enter the amount of the apportionment request for payments to a special fund receipt account for downward reestimates of the subsidy and the amount apportioned.

Line 12. Total Resources

Enter the sum of lines 8 through 11.

67.2. Reports on Credit Execution— Guaranteed Loans.

There will be two separate reports, SF 143GLP for the program account and SF 143GLF for the financing account.

The report for the program account and page two of the report for the financing account present the status of the apportioned resources.

From top to bottom, the report for the program account and page two of the report for the financing account is divided into three major sections. The top section is called "Federal Resources". It presents information on the resources available to the accounts. The middle section is called "Status of Resources". It provides information on the obligations that were incurred and the available balances. The bottom section is called "Relation of Obligations to Outlays" on the SF 143GLP for the program account and "Relation of Obligations to Disbursement" for page two of the SF 143GLF for the financing account.

From left to right, the first column in the schedule presents the total for the account as a whole. The

other columns differ for the program account and the financing account because the program account, which is an annual account, expires for purposes of new obligations; while the financing account, which is a no-year account, does not. Therefore, the program account presents the unexpired year in the second column and the expired years in subsequent columns. The financing account presents the information by cohorts.

Page one of the financing account presents the status of the apportionment of the program level.

(a) **Program Accounts.**—The following explanation of the line entries for the credit execution reports covers the specific lines and rules that are unique to guaranteed loan program accounts (see exhibit 67D). Part V provides general procedures, line entries, and rules for budget execution reports. To the extent that additional lines are needed, use the stub entries and definitions provided in Part V upon approval of the OMB representative with primary budget responsibility for the account.

SF 143GLP EXECUTION REPORTS FOR GUARANTEED LOAN PROGRAM ACCOUNTS

Line Entry	Explanation
FEDERAL RESOURCES	
Line 1. Budget and Financing Authority:	
a. Subsidy: current definite	Enter the amount of current definite appropriations for guaranteed loan subsidies that is specified in an appropriation act and becomes available on or after October 1 of the fiscal year.
b. Subsidy: current indefinite	Enter the amount of current indefinite appropriations for guaranteed loan subsidies that is specified in an appropriation act and becomes available on or after October 1 of the fiscal year.

c. Administrative expenses	Enter the amount of administrative expenses that is specified in an appropriations act and becomes available on or after October 1 of the fiscal year.
d. Subsidy: permanent indefinite	Enter the amount of permanent indefinite appropriations for subsidy reestimates.
Line 7. Total Resources	Enter the sum of the amounts shown on lines 1 through 6.

STATUS OF RESOURCES

Line 8. Obligations incurred:	
a. Guaranteed loan subsidy	Enter the subsidy cost as an obligation when the loan guarantee commitment is made. For instructions on calculating the guaranteed loan subsidy see section 62.7. When the subsidy cost is obligated on this line, it will be shown as an obligated balance, end-of-period (on line 13.b), until the guaranteed loan or a portion of the guaranteed loan is disbursed by the non-Federal lender. Record accounts payable in the amount of the obligation. When the loan is disbursed, enter an outlay on line 14. The amount of the outlay will be equal to the subsidy cost multiplied by the proportion of the loan being disbursed. Reduce the end of period obligated balance on line 13.b by the amount of the outlay. Note: The total face value of all loan guarantee commitments may not exceed a limitation on loan guarantee commitments specified in the appropriations language.
b. Administrative expenses	Enter the obligations incurred for administrative expenses. See section 62.5 for amounts that may be properly reported on this line.
c. Subsidy for modifications	Enter the obligations incurred for modifications. To calculate the subsidy, see section 62.9(b).
d. Subsidy for reestimates	Enter the obligations incurred for increases in subsidy cost discovered by reestimates. To calculate the reestimate, see section 62.8.
Line 9. Unobligated balances available	
a. Guaranteed loan subsidy	Enter the unobligated balance of the amount apportioned for guaranteed loan subsidy.
b. Administrative expenses	Enter the unobligated balance of the amount apportioned for administrative expenses.
Line 11. Total Resources	Enter the sum of the amounts on lines 8 through 10. This amount will be identical to the amount on line 7.

(b) **Financing Accounts.**—The following explanation of the line entries for the credit execution reports covers the specific lines and rules that are unique to guaranteed loan financing accounts (see exhibit 67E). Part V provides general procedures, line entries, and rules for budget execution reports. To the extent that additional lines are needed, use the

stub entries and definitions provided in Part V upon approval of the OMB representative with primary budget responsibility for the account.

The account total column is required during each reporting period. The detail by cohort of loans is required only on the final SF 143GLF for the fiscal year.

SF 143GLF EXECUTION REPORTS FOR GUARANTEED LOAN FINANCING ACCOUNTS

Line Entry	Explanation
PROGRAM LEVEL	
Line 1. Guaranteed Loan Level	Enter the amount apportioned on line 1 of the most recent SF 142.
Line 2. Federal share supportable by subsidy	Enter the amount apportioned on line 2 of the most recent SF 142.
STATUS	
Line 3. Total new guaranteed loan commitments	Enter the total amount of full principal of commitments to guarantee loans by private lenders. If this amount is greater than the amount on line 1, there is an apparent violation of the Antideficiency Act.
Line 4. Outstanding, start of year	Enter the amount of guaranteed loan principal outstanding at the start of the fiscal year.
Line 5. Disbursements by non-Federal lenders:	
a. New guaranteed loans	Enter the amount of guaranteed loan principal disbursed by non-Federal lenders.

b. Guaranteed loans sold to the public with recourse	Enter the face value amount of guaranteed loan principal associated with loans sold to non-Federal buyers with recourse to the Federal Government.
Line 6. Repayments and prepayments (-)	Enter the amount of principal repayments and prepayments.
Line 7. Adjustments:	
a. Terminations for default that result in loans receivable (-)	Enter the amount of loan principal reduced by terminations for default that subsequently become a loan receivable in which the formerly guaranteed borrower is deemed to owe the agency for the amount of claims paid as a result of the borrower's default.
b. Terminations for default that result in acquisition of property (-)	Enter the amount of loan principal reduced by terminations for default that lead to the acquisition of property by the agency.
c. Terminations for default that result in claim payments (-)	Enter the amount of loan principal reduced by terminations for default that lead to claim payments by the agency that result in neither a loan receivable nor the acquisition of property.
d. Other adjustments, net (+) or (-)	Enter the amount of loan principal reduced or increased for reasons other than those covered by the lines listed above; i.e., outstanding principal balances of guaranteed loans transferred to or received from other accounts. Explain the nature of the adjustment in a footnote.
Line 8. Outstanding, end of period	Enter the amount of guaranteed loan principal outstanding at the end of the reporting period. This should equal the sum of lines 4 through 7.
Line 9. Federal share of new commitments	Enter the amount of liability associated with line 3. Include the percent of the Federal share in the stub entry of this line. If this amount is greater than the amount on line 2, there is an apparent violation of the Antideficiency Act.
Line 10. U.S. contingent liability, end of period	Enter the amount of Federal liability for the guaranteed loan principal associated with line 8. To the extent that the guarantee covers both principal and interest, this amount should not include interest. Include the percent of the Federal share in the stub entry of this line. If this amount is greater than the amount on line 2, there is an apparent violation of the Antideficiency Act.

FEDERAL RESOURCES

Line 1. Financing authority:	
a. Permanent indefinite authority to borrow	Enter the portion of the apportioned permanent indefinite authority to borrow from the Treasury that was used.
Line 3. Offsetting collections from:	
a. Non-Federal sources:	
(1) Fees collected	Enter the amount of fees collected.
(2) Collections of principal	Enter the amount of repayments of principal collected.
(3) Collections of interest	Enter the amount of interest collected.
(4) Proceeds from collateral	Enter the amount of proceeds from collateral collected. This amount should be gross of the amounts that are routinely deducted from the proceeds of sales and the costs of foreclosing, managing, and selling collateral that are capitalized.
(5) Earned and anticipated but not collected	Enter the amounts that have been earned but not yet collected or that are anticipated to be credited to this account for items (1) through (4) above during the current fiscal year but not collected. These are non-add items and should be placed in parentheses.
b. Federal sources:	
(1) Subsidy: current definite	Enter the amount of current definite appropriations for guaranteed loan subsidies collected from the program account.
(2) Subsidy: permanent indefinite	Enter the amount of permanent appropriations for subsidy reestimates collected from the program account.
(3) Interest from Treasury	Enter the amount of interest collected from Treasury.
(4) Accounts receivable	Enter the amount of receivables from other Federal government accounts for which valid obligations have been incurred.
(5) Payments from liquidating accounts	Enter the amount of payments received from liquidating accounts for pre-1992 guarantees that have been modified. See section 62.9(d).
(6) Subsidy: current indefinite	Enter the amount of current indefinite appropriations for guaranteed loan subsidies collected from the program account.
Line 6. Portion applied to debt reduction	
a. Paid (-)	Enter the amount (as a negative) of principal repayments paid to Treasury.
b. Accounts payable (-)	Enter the amount (as a negative) of principal repayments to be paid to Treasury during the fiscal year.
Line 7. Total Resources	Enter the sum of lines 1 through 6.

STATUS OF RESOURCES

Line 8. Obligations incurred for:	
a. Default claims	Enter the amount of claims due as a result of the borrower's default.
b. Interest payments to Treasury	Enter the amount of interest owed to Treasury through the reporting period, including amounts paid.
c. Capitalized costs, etc.	Enter the amount of obligations for the cost of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales.
d. Payments to receipt accounts	Enter the amount of obligations for payments to a special fund receipt account for downward reestimates of the subsidy.
e. Interest supplements and other payments to lenders	Enter the amount of obligations for payments to lenders other than default claims.
Line 9. Unobligated balances available:	
a. Default claims	Enter the unobligated balance of the amount apportioned for claims due as a result of default by borrowers.
b. Interest payments to Treasury	Enter the unobligated balance of the amount apportioned for interest owed to Treasury.
c. Capitalized costs, etc.	Enter the unobligated balance of the amount apportioned for the cost of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales.
d. Payments to receipt account	Enter the unobligated balance of the amount apportioned for payments to a special fund receipt account for downward reestimates of the subsidy.
e. Interest supplements and other payments to lenders	Enter the unobligated balances of the amount apportioned for payments to lenders other than default claims.
Line 10. Unobligated balances not available:	
a. Apportioned for subsequent period	Enter the amount apportioned by time periods that will not become available until after the reporting period, as approved on the most recent SF 142.
b. Withheld pending rescission	For instructions on the use of this line, see Part VII.
c. Deferred	For instructions on the use of this line, see Part VII.
d. Unapportioned balance	Enter the amount shown on line 11 of the SF 142.
Line 11. Total Resources	Enter the sum of the amounts shown on lines 8 through 10.

68.0. Closing Accounts.

This section provides specific rules for closing accounts for credit programs. Part XI provides general procedures for closing accounts and defines terms. To the extent that the instructions in this section differ from the instructions in Part XI, the instructions in this section supersede those in Part XI.

68.1. Program Accounts.

Generally these are "fixed" accounts with annual appropriations. The appropriations in these accounts are available for disbursement for only five years after the year in which the obligational authority of the appropriations expires. Program accounts pay (a) credit administrative expenses and (b) subsidy costs to credit financing accounts. Each will be treated in the following manner:

(a) **Administrative Expenses.**—The amounts earmarked for administrative expenses within the annual appropriations expire at the end of the fiscal year for which they are provided.

The expired obligated and unobligated balances retain their fiscal year identity for 5 fiscal years after

the year in which the obligational authority of the appropriation expires. During this 5-year period, the balances are no longer available for incurring new obligations because the time available for incurring such obligations has expired. The balances are available for recording, adjusting, and liquidating obligations properly chargeable, in terms of purpose and amount, against the amounts earmarked for administrative expenses.

At the end of the 5-year period, the obligated balances are required to be deobligated, and all balances are canceled. Once balances are canceled, the account is permanently closed and the amounts are not available for any purpose.

After the account is closed there are only two alternative ways of liquidating old obligations. First, within limits, obligations and adjustments to obligations that would have been properly chargeable to the canceled balances may be charged to any unexpired appropriation account of the agency that is available for the same purpose. The total amount of charges for liquidating canceled obligations against any unexpired account is 1 percent of the total amount

appropriated, excluding any other unexpired budgetary resources (such as unobligated balances or offsetting collections) in the account. The second alternative is to seek reappropriation of canceled balances and defer payment until the amounts are appropriated. Reappropriated amounts are accounted for as new appropriations. See Exhibit 68.

(b) **Subsidy Costs.**—Subsidy costs are subject to two unique features that do not apply to non-subsidy amounts. These are:

- Permanent indefinite budget authority is provided by law for “reestimates” of subsidy costs.
- The law prohibits “modifications” unless budget authority for the additional cost is appropriated.

As a result, after the obligational authority for the amounts earmarked for subsidy payments expires, the expired unobligated balances are available only for upward adjustments in obligations to correct mathematical or data input errors in calculating subsidy amounts. They are not available for increases due to changes in technical assumptions or contract terms.

The obligated balances for subsidy payments to the financing account are available for liquidation or disbursement during the 5 fiscal years after the year in which the obligational authority of the appropriation expires. Then the obligated balances are deobligated and canceled.

After these 5 years, all unexpended (unobligated and obligated) balances are canceled, i.e., the unexpended balances are no longer available for any purpose. After the balances are canceled, the alternative ways of liquidating old obligations that are described above apply. (See section 68.1(a).) For loans that are normally disbursed beyond the 5-year period of availability, *OMB Circular No. A-11* provides guidance on requesting appropriations with disbursement authority to match the normal spend out of the loan program.

68.2. Financing accounts.

These are revolving funds, which are no-year accounts. As with non-credit no-year accounts, the amounts available do not expire and the accounts are not automatically closed.

68.3. Liquidating Accounts.

Prior to credit reform, credit programs were generally funded in revolving fund accounts. The revolving funds were initially provided with no-year working capital, authorized to be credited with offsetting collections from borrowers, and occasionally

provided with some type of no-year appropriations, such as the authority to borrow from the Treasury.

These accounts will record transactions related to all cash flows to and from the Government resulting from pre-1992 direct loans and loan guarantees. Any modifications (see section 62.9) made on October 1, 1991, and thereafter as well as administrative expenses will be accounted for in program accounts and financing accounts.

For direct loan programs, the only legal purposes for which balances will be available will be to pay the following costs of loans obligated by September 30, 1991:

- to pay interest to the Treasury or the Federal Financing Bank for amounts borrowed;
- to repay principal borrowed from the Treasury or the Federal Financing Bank;
- to disburse loans; and
- to pay the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales.

For guaranteed loan programs, the only legal purposes for which balances will be available will be to pay the following costs of guarantees committed by September 30, 1991:

- to pay interest to the Treasury or the Federal Financing Bank for amounts borrowed;
- to repay principal borrowed from the Treasury or the Federal Financing Bank;
- to pay default claims;
- to pay interest supplements; and
- to pay the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales.

In addition, for credit programs that will be discontinued as of October 1, 1991, and will have no modifications (i.e., no subsidy appropriation for subsequent fiscal years is provided), the resources of the liquidating account will also be legally available for administrative expenses.

Therefore, the need for the balances in the liquidating accounts will diminish as the loans are closed out. Balances in excess of the amounts needed for the foregoing purposes are excess balances for the purposes described below.

(a) **Excess Balances.**—Any excess balances will be transferred to the general fund as capital transfers, which are nonexpenditure transfers. They will not count as outlays. Nonexpenditure transfers are accomplished via Treasury standard form 1151. Such

transfers shall be made from time to time but at least once each year.

These amounts should be transferred to the capital transfer receipt account 2813, "Repayment of capital stock (name of corporation)", or to receipt account 2814, "Other repayments of investments and recoveries, name of corporation or revolving fund", as appropriate. These receipt accounts are not budgetary accounts in that they do not offset outlays.

Excess balances in special and trust funds, if any, will not be returned to the associated receipt accounts. These amounts are no longer available for any purpose since the purposes for which they were provided no longer exist. Therefore, these excess balances will be transferred to the general fund, as described above.

(b) **Lack of Funds to Pay Interest and Repay Borrowing from Treasury.**—If a liquidating account does not have funds to pay interest or to repay principal to Treasury, then it will use permanent indefinite appropriations. Appropriations to repay principal are not counted as budget authority or outlays. Appropriations to make interest payments are counted as budget authority and outlays. Any subse-

quent collections received by the account that are not required to pay interest or repay principal will be treated as excess balances and returned to Treasury as described above.

68.4. Reappropriation.

To the extent that an appropriation act or other law extends the availability of the unexpended balances that would otherwise be canceled in a credit account, the unexpended balances will be treated in the same manner as a non-credit account. This means that the amount will be treated as a reappropriation. The time period during which the amount may be disbursed depends on the nature of the appropriation language.

Under current law, where no time period is specified, the appropriation action is annual and the time limit on disbursement is 5 years. Where the time period is specified as "to be available until expended", the appropriation action is no-year and there is no time limit on disbursement. Where the time period is specified to a time certain, e.g., September 30, 1995, the appropriation action is multi-year and the time limit on disbursement is the year specified.

APPENDIX C

FUNCTIONAL REQUIREMENTS: DIRECT LOAN ACCOUNTING SYSTEMS

1. **Purpose.**—The purpose of this functional requirements statement is to outline for systems designers those processes which must be performed by a direct loan system. While the systems must perform a variety of functions, this statement is largely limited to those functions and data elements that were created by the Federal Credit Reform Act of 1990, and that appear in the program account and in the financing account.
2. **Basic Functional Objectives.**—The basic functional objectives of a direct loan system are outlined below:
 - A. Track the current status and history of both new and outstanding loans.
 - B. Maintain the necessary fund controls to conform with the Federal Credit Reform Act of 1990, including computation of subsidy values and maintenance of subsidy information.
 - C. Record and classify according to information requirements all cash disbursement and cash collection transactions.
 - D. Record and track the amount of uninvested funds in the financing account, and compute daily interest earnings, since the legislation requires Treasury to pay interest on all unused cash in the financing account.
 - E. Record and track the amount of borrowings from the Treasury, and compute the daily interest expense related to those borrowings.
 - F. Where applicable, record and classify operations and maintenance expenses related to acquired collateral. Segregate those expenses that are paid from the financing account, which consist of the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from sales proceeds.
 - G. Maintain or provide to the general ledger all data necessary to produce required external reports to OMB and Treasury, as well as for audited financial statements.
 - H. Maintain data necessary to measure the accuracy of the loan subsidy by cohort and risk category based on the ability to project future cash flows based on current information in the system.
 - I. Maintain standard general ledger controls over all transactions including at least monthly reconciliations of obligations, accruals, cash transactions, and proprietary data, as well as reconciliations of external reports with cash reports to Treasury.
3. **Computation of Interest Expense on Borrowings from Treasury and Interest Earnings on Uninvested Funds.**—Agencies will be responsible for computing and paying interest expenses on borrowings from Treasury and for maintaining this data at the financing tranche level (see later discussion of financing tranche). Treasury will compute interest expense at the budget account level to ensure basic agency accuracy. Agencies will also be responsible for computing interest earnings on uninvested funds and for maintaining this data at the financing tranche level. Maintenance of this data at the tranche level is critical for computing reestimates of subsidy costs.
4. **Levels of Data Bases.**—In designing the data bases necessary to support direct loan credit activities, agencies should consider appropriate levels of summary for the purposes of computational and reporting efficiency. While some data must be maintained at the individual loan level, other data may be summarized at higher levels in the data base. The functional descriptions that follow in later sections will indicate recommended but not required summary levels. Basically, the main record levels in the credit system will be:
 - A. **Transactions:** The transaction register records all aspects of an individual loan obligation, disbursement, collection or borrowing.

- B. *Loan History*: The loan detail record groups these transactions by individual loan record, in order to provide the status or history of the loan.
 - C. *Financing Tranche*: The financing tranche will group all direct loans within a cohort, identified by risk category, that are disbursed in the same quarter and that have the similar maturity, i.e., that fall within the same maturity (or term) interval. Each tranche will be assigned an interest rate for the purpose of computing interest expense and interest earnings. The borrowing from Treasury to make these disbursements, and the earnings on uninvested funds resulting from subsequent collections of these loans, will earn interest at the same rate. The interest rate will be published by Treasury at the beginning of each quarter for each maturity interval. It will be used in that quarter to calculate subsidies and to determine the interest rate for new financing tranches. Within a quarter, more than one financing tranche will be created if loans are made that fall within different maturity (or term) intervals. The interest rate assigned to the tranche will remain constant throughout the life of a cohort.
 - D. *Risk Category*: The risk category will group all loans obligated by a program during the year that share characteristics predictive of cost—notably defaults. The purpose is to measure the accuracy of a subsidy. Risk categories will be defined by agencies and OMB examiners.
 - E. *Program Cohort*: The program cohort will group several risk categories into a program level. A program is defined by language in the annual appropriation or by agreement with the OMB budget examiner. A program cohort is a fiscal year (i.e. year of the subsidy appropriation which originally financed the loan). This data must be maintained as a unit throughout the life of the loan for the purpose of subsidy reestimation.
 - F. *Account*: The account level is the budget account used for the programs. At a minimum, the agency's general ledger that supports the credit program must be maintained at the account level.
5. **Process of Subsidy Reestimates.**—The reestimate process will examine the results of operations at the risk category and cohort levels. If this examination indicates that no subsidy adjustment is needed FOR THE COHORT as a whole then no *financing account level* adjustment will be necessary for that cohort. However, further analysis is necessary to determine whether funds must be transferred BETWEEN risk categories to provide adequate funding in each risk category. If that is the case, funds must be properly apportioned among the financing tranches of each risk category.
- Cohort level analysis is indicative of adjustments needed at the financing account level. For example, even if analysis at the financing account level indicates that no adjustment is necessary in the subsidy cost of the ACCOUNT AS A WHOLE, adjustments may still be necessary. In this case, adjustments must be reflected in the financing account by grouping cohorts that need indefinite appropriation subsidy funds and separately grouping cohorts that have excess funds to be transferred to the special fund receipt account. These two cohort groups MAY NOT BE NETTED. Funds must be transferred to the special fund receipt account even though indefinite appropriations for reestimated increases in subsidy costs are needed for certain cohorts within the financing account.
6. **Processing of Cash Collections**
- A. The system must be capable of segregating cash collections into the following categories at a minimum:
 - Borrowing from Treasury.
 - Collections of subsidies from the program account, including modifications and reestimates.*
 - Collections of principal from borrowers.

* Asterisked items may not be currently segregated in credit agency systems, but must be segregated for 1992 loans.

- Collections of interest from Treasury.
- Collections of fees further segregated between fees at origination and post-origination (annual or monthly) fees.*
- Collections of regular interest from borrowers.
- Collections of late charges subdivided among delinquency interest, penalties, and administrative charges.
- Collections from sale of acquired collateral:*
- Gross sale price.
- Net collections.
- Collections on rental income.
- Collections on previously defaulted loans (recoveries).*
- Collections of prepayment penalties.*
- Any other subdivision of collections reported on the program and financing schedule, or Treasury schedules.

B. Cash collections will be applied in the system in the following manner:

- Collections of new loan subsidies will be used to reduce the amount of borrowing necessary to finance loan disbursements. Subsidies will not be drawn from the program account until the date that loan disbursements are made.
- Collections of subsidies related to reestimates and loan modifications will be accumulated in financing account and will be used for monthly payment of Treasury interest and semi-annual repayment of related borrowings.
- Collections of interest from Treasury on uninvested funds will be accumulated in the financing account and will be used for monthly payment of Treasury interest and semi-annual repayment of borrowings.
- Collections from borrowers of fees, principal, interest, and other non-rental collections will be accumulated in the financing account and will be used for monthly payment of Treasury interest and semiannual repayments of borrowing.
- In order to service acquired collateral, cash balances in some programs will be set aside in a separate internal allocation within the financing account to pay the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from sales proceeds. Rental collections will be the first source used to finance this working capital. Where rental income is not sufficient, agencies must negotiate, with their budget examiner, a standard method (e.g., a percentage of all collections) to build working capital cash balances. Cash balances for working capital may not exceed apportioned levels. (The cash balance of this internal allocation will earn interest at a special short-term Treasury rate, since the balances are short-term. This rate is likely to be, on the average, lower than the long-term rates earned by the financing tranches. Consequently, working capital cash balances should be restrained to minimal funding levels adequate to meet immediate needs.)
- Rental collections in excess of working capital requirements will also be accumulated in the financing account and will be used for payment of Treasury interest and semiannual repayment of borrowing.

7. *Processing of Loan Disbursements and Other Expenses*

- A. Loan disbursements will be financed from subsidy collections and indefinite borrowing authority. No disbursement may be made if insufficient budget authority exists from *either* the program subsidy account *or* loan level limitations. The system must be capable of computing the required amount of Treasury borrowing for each loan disbursement by subtracting the related subsidy from the face value of the direct loan.
- B. The system must be capable of determining the Treasury interest rate (financing tranche) for each loan disbursement. It must also be capable of classifying payments to Treasury in

terms of accrued interest expense related to a particular financing tranche as well as repayment of borrowing (redemption of debt) associated with that financing tranche.

- C. The system must be capable of classifying, separately from other costs, the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from sales proceeds; and it must be capable of associating these costs with internal limitations on working capital cash balances.

8. *Special Processing Requirements for Modified Direct Loans*

Direct loans which have been modified require a payment of subsidy from the program account to the financing account. Other sections of this Circular provide instructions for modified loans. Outlined below are the processing requirements for modified loans when a subsidy deposit is required:

A. Modification of Pre-1992 Direct Loans (in the liquidating account):

- A subsidy must be drawn from the program account and deposited into the financing account.
- The unpaid loan principal and accrued interest expense must be transferred from the liquidating account to the financing account.
- The financing account will transfer cash to the liquidating account to “pay off” principal and accrued interest. The computation of this adjusting payment is outlined in section 62.9 of this Circular, describing modifications. This transfer will be financed by the subsidy and by borrowing from Treasury.
- These transactions will be classified into a special cohort for all pre-1992 modified loans.
- The interest rate applicable to the REMAINING term of the loan (as modified) will be applied to the borrowing from Treasury related to this transaction.

B. Modification of the Post-1991 Direct Loans (in the financing account):

- A subsidy must be drawn from the program account and deposited into the financing account. The deposit should be classified as belonging to the original (not current) program year cohort and financing tranche.
- The modified loan and related borrowing will remain in the original program year, cohort, and financing tranche. (See later discussion of financing tranche.) The original Treasury interest rate will be used.
- The subsidy will be retained and used to pay Treasury interest monthly and repay principal at the next semiannual redemption.

9. *Fund Controls.*—The system must be capable of simultaneously determining, at the obligation stage, whether sufficient budget authority for the subsidy exists in the program account and whether a sufficient unused loan level limit exists in the financing account. The system for calculating obligations must also be capable of changing the subsidy calculation when the Treasury interest rate changes. (Rate changes do not affect obligated but undisbursed loans.)

10. *Financing Tranche.*—At the point of each disbursement, the system must assign the appropriate interest rate to be used for computing interest due the Treasury for related borrowing. The system must also accumulate net borrowing (amount borrowed less principal repaid) in the “financing tranche” in order to compute monthly accrued interest. Agencies should consider a module to accumulate and compute this data for each financing tranche within a cohort since it is not required at the detailed loan level. From a functional standpoint, this module must:

- A. Compute Treasury interest accrued on a daily basis, and pay interest to Treasury on a monthly basis. As an option, this interest payment may be computed monthly on the basis of the average daily amount of debt.
- B. If cash balances, within the tranche, are not sufficient to pay monthly accrued interest—process a new borrowing from Treasury to pay the interest due. The new borrowings will accrue interest expense at the tranche rate. The cash proceeds from the new borrowing will be used to pay (outlay) monthly accrued interest to Treasury.

- C. Pass summary interest accrual data to the general ledger.
 - D. Post new borrowing data each day summarized by date of borrowing and interest rate.
 - E. Post summary of interest payments to Treasury by interest rate.
 - F. Compute current borrowing and interest outstanding.
 - G. Maintain identity of tranche to risk category and cohort for comparing estimated and actual cash flows at the risk category and cohort levels. However, tranches within a cohort may be combined in ways that provide the same interest computations, if approved by Treasury and the OMB representative with primary budget responsibility for the account.
 - H. Compute monthly, quarterly, annually, and "since inception" the following data:
 - Interest expense.
 - New borrowing.
 - Repayments (redemption of debt).
11. **Interest Earnings—Except Working Capital Cash Balances.**—Cash which accumulates in the financing account earns interest at the same rate that the related borrowing accumulates interest expense. The only exception to this rule is cash transferred to Working Capital balances which will earn interest at a short-term rate set by the Treasury. Agencies should consider a module which will track accumulated cash, by financing tranche, and compute interest earned. From a functional standpoint, this module must:
- A. Post all non-subsidy collections (including collateral sales) summarized by financing tranche, on a daily basis, associated with the date of deposit.
 - B. Post monthly interest and semiannual (March 31 and September 30) principal redemption payments to Treasury. Post transfers to working capital fund cash balances on a daily basis.
 - C. Compute the daily ending accumulated cash balance by financing tranche.
 - D. Compute Treasury daily interest earned by financing tranche and pass accruals to general ledger on a daily basis, or on a monthly basis if option in section 10A is used.
 - E. Compute monthly, quarterly, annually, and "since inception" Treasury interest earnings data.
 - F. Optional—This module could also be used to record collections data by type (principal repayments, interest, fees, subsidy transfers, collateral sales) and provide monthly, quarterly, annual, and "since inception" data for reporting purposes.
- NOTE: Since collections must be associated with a financing tranche and risk category, we recommend that financing tranche and risk category identification be associated with the basic loan identification number or at least the accounting classification code. Also note that the "daily balance" may be computed retrospectively since deposit information may be tardy in large systems.
12. **Interest Earnings—Working Capital Cash Balances.**—Working capital cash balances will be maintained within the financing account to pay certain specified costs of servicing collateral acquired by the credit agency. These balances will be derived from non-subsidy collections. The basis for transferring funds to the working capital balances should be negotiated with each agency's budget examiner; however, it should reasonably reflect the operating costs of each cohort. Some methods to consider would be: (1) a fixed amount associated with each piece of acquired collateral; (2) a percentage of general collections within each cohort that has acquired collateral; or (3) a percentage of general collections for all cohorts. Daily unused cash balances would earn interest from the Treasury on the basis of a general short-term rate set by the Treasury. The only costs that may be paid from these balances are the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from sales proceeds. From a functional standpoint, this module must:
- A. Post all collections or transfers daily.
 - B. Post all operations and maintenance disbursements daily.

- C. Compute the daily ending accumulated cash balance.
 - D. Compute Treasury interest earned daily and pass accruals to general ledger.
 - E. Compute monthly, quarterly, annually, and "since inception" data on Treasury interest earnings and working capital disbursements.
 - F. Report data without regard to cohort or financing tranche.
13. **Subsidy Reestimate Data.**—The system must maintain cash flow data which permits comparison of actual cash flows each year (and new estimates of future cash flows) to the cash flows used in computing the latest subsidy estimate for an individual risk category and cohort. This comparison will be used by analysts to determine whether a subsidy reestimate is necessary, as well as the reasons for the subsidy variance. In order to support this computation, segregation of cash collections and disbursements discussed earlier must be maintained in the credit data base. Outputs should be designed in conjunction with analysts to support the reestimate process.
14. **Data for External Reports.**—In order to support external reporting requirements for direct loans, the obligation data in the financing account must be segregated by:
- A. Direct loan obligations.
 - B. Loan face value.
 - C. Interest expense to Treasury.
 - D. Costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from sales proceeds.
 - E. Adjusting payments to the liquidating account for modifications of pre-1992 direct loans.

Collections data must be maintained as outlined in previous sections.

In the program account, obligations must be segregated by direct loan subsidy and by administrative expenses. Further subdivisions within these categories may be necessary depending upon the program and budget examiner requirements.

Systems designers should also review the requirements of Treasury Department reports (e.g., SF 220-9) in designing information requirements of the system.

APPENDIX D

FUNCTIONAL REQUIREMENTS: GUARANTEED LOAN ACCOUNTING SYSTEMS

1. **Purpose.**—The purpose of this functional requirements statement is to outline for systems designers those processes which must be performed by a guaranteed loan system. While these systems must perform a variety of functions, this statement is largely limited to those functions and data elements that were created by the Federal Credit Reform Act of 1990, and that appear in the program account and in the financing account.
2. **Basic Functional Objectives.**—The basic functional objectives of a guaranteed loan system are outlined below:
 - A. Track the current status and history of both new and outstanding guaranteed loans, as well as the status and history of defaulted guaranteed loans transferred to the government for servicing or write-off.
 - B. Maintain the necessary fund controls to conform with the Federal Credit Reform Act of 1990, including computation of subsidy values and maintenance of subsidy information.
 - C. Record and classify according to information requirements all loan guarantees, cash disbursements (including default claims and interest or fee payments to private lenders), and cash collection transactions.
 - D. Record and track the amount of uninvested funds in the financing account, and compute daily interest earnings, since the legislation requires Treasury to pay interest on all unused cash in the financing account.
 - E. Record and track any borrowings from Treasury as necessary to pay default claims and other expenses and to compute the daily interest expenses related to borrowings.
 - F. Where applicable, record and classify operations and maintenance expenses related to acquired collateral. Segregate those expenses that are paid from the financing account, which consist of the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from sales proceeds.
 - G. Maintain or provide to the general ledger all data necessary to produce required external reports to OMB and Treasury, as well as for audited financial statements.
 - H. Maintain data necessary to measure the accuracy of the loan subsidy by cohort and risk category based on the ability to project future cash flows based on current information in the system.
 - I. Maintain standard general ledger controls over all transactions including at least monthly reconciliations of guaranteed loans committed, lender disbursements, obligations, accruals, cash transactions, and proprietary data, as well as reconciliations of external reports with cash reports to Treasury.
3. **Computation of Interest Earnings on Uninvested Funds.**—Ordinarily, the financing account will have sufficient cash balances to pay default claims and other expenses of the fund. Cash will be provided early in the life of the guarantee from deposits of subsidy from the program account and fees at origination. Even where original subsidy estimates are too low, the subsidy will be reestimated annually and the reestimation process will normally provide supplementary funding in advance of default claims.

Uninvested funds in the financing account earn interest from Treasury. Agencies will be responsible for computing these interest earnings and for maintaining this data at the financing

tranche level (see discussion of financing tranche in section 7.C.). Maintenance of this data at the tranche level is critical for computing reestimates of subsidy costs.

4. **Computation of Interest Expenses on Borrowings from Treasury.**—For the reasons stated, above, borrowings to finance claim payments and other expenses should be an extremely rare event except in the case of loan guarantees affected by sudden and substantial emergencies. Borrowings from Treasury may be used to finance expenses when cash balances are not sufficient to pay current costs. Agencies will be responsible for computing and paying interest expenses on borrowings from Treasury and maintaining this data at the tranche level. To ensure agency accuracy, Treasury will independently compute interest expense, but at the financing account level.
5. **Process of Subsidy Reestimates.**—The reestimate process will examine the results of operations at the risk category and cohort levels. If this examination indicates that no subsidy adjustment is needed FOR THE COHORT as a whole then no *financing account level* adjustment will be necessary for that cohort. However, further analysis is necessary to determine whether funds must be transferred BETWEEN risk categories to provide adequate funding in each risk category. If that is the case, funds must be properly apportioned among the financing tranches of each risk category.

Cohort level analysis is indicative of adjustments needed at the financing account level. For example, even if analysis at the financing account level indicates that no adjustment is necessary in the subsidy cost of the ACCOUNT AS A WHOLE, adjustments may still be necessary. In this case, adjustments must be reflected in the financing account by grouping cohorts that need indefinite appropriation subsidy funds and separately grouping cohorts that have excess funds to be transferred to the special fund receipt account. These two cohort groups MAY NOT BE NETTED. Funds must be transferred to the special fund receipt account even though indefinite appropriations for reestimated increases in subsidy costs are needed for certain cohorts within the financing account.

6. **Data Base Support for Subsidy Reestimates.**—Analysis of subsidy costs at the risk category level relies on critical information on interest earnings and interest expenses. Funds will be transferred into or out of each risk category/tranche on the basis of the annual subsidy reestimate. Consequently, it is particularly important to identify those (few) tranches where disbursements have exceeded collections, causing borrowings from Treasury. In these cases, supplementary funding from reestimates will be deposited in the tranche and used by the tranche to repay Treasury borrowings. Equally important is the ability of the tranche to maintain data on cash balances since interest earnings and expenses are dependent on this information.
7. **Levels of Data Bases.**—In designing the data bases necessary to support guaranteed loan activities, agencies should consider appropriate levels of summary for the purpose of computational and reporting efficiency. While some data must be maintained at the individual loan level, other data may be summarized at higher levels in the data base. The functional descriptions that follow in later sections will indicate recommended but not required summary levels. Basically, the main record level in the credit systems in ascending order will be:
 - A. **Transactions:** The transaction register records entry level data on guaranteed loan commitments, lender disbursements, obligations and disbursements of default claims and other expenses, collections. Entry level data may be a summary report from the lender.
 - B. **Loan Guarantee History:** The loan detail record records all transactions related to individual loans made by private lenders. The history record provides the status of guarantees and includes data on the original loan, repayments to the lender, and write-offs or other adjustments. The details of this record may be maintained by the credit agency, or the agency may rely on lender maintenance of individual loans while requiring the lender to submit summary data to the accounting system. If a defaulted loan is transferred to the government for servicing, records similar to those required for direct loans, at the individual loan level, must be maintained. The defaulted loan records must be associated

with the appropriate cohort, risk category, and financing tranche in the financing account for guaranteed loans.

- C. *Financing Tranche*: The financing tranche will group all guaranteed loans within a cohort, identified by risk category, that are disbursed by a lender in the same quarter and that have similar maturity, i.e., that fall within the same maturity (or term) interval. Each tranche will be assigned an interest rate for the purpose of computing interest earnings and interest expenses. The earnings on uninvested funds, and any borrowings from Treasury, will earn interest at the same rate. The interest rate will be published by Treasury at the beginning of each quarter for each maturity interval. It will be used in that quarter to calculate subsidies and to determine the interest rate for new financing tranches. Within a quarter, more than one tranche (each with its own interest rate) will be created if loans are made that fall within different maturity (or term) intervals. The interest rate assigned to the tranche will remain constant throughout the life of the cohort.

All disbursement and collections data must be posted at the tranche level since this data affects uninvested cash balances (used to compute interest earnings) and outstanding Treasury borrowings (used to compute interest expenses). Lenders must be capable of submitting quarterly summaries of loan data by tranche within a risk category. This data, aggregated to the risk category and cohort levels, will be used to measure the accuracy of the subsidy. However, tranches within a cohort may be combined in ways that produce the same interest computation, if approved by Treasury and the OMB representative with primary budget responsibility for the account.

The financing tranche will also include defaulted loans. When a loan defaults it will retain its ORIGINAL tranche identification. The credit agency must subdivide records within the tranche between defaulted and guaranteed loans. Collections related to the defaulted loan will be deposited in this financing tranche.

- D. *Risk Category*: The risk category will group all guaranteed loan commitments by a program during the year that share characteristics predictive of cost—notably defaults. The purpose of subdividing the cohort is to measure and control the subsidy more accurately. Risk categories will be defined by agencies and OMB examiners.

The credit agency may summarize this data by lender; however, tranche and cohort identity must be maintained. A defaulted loan will retain the ORIGINAL risk category assigned at commitment.

- E. *Program Cohort*: The program cohort will group several risk categories into a program level. A program is defined by language in the annual appropriation or by agreement with the OMB budget examiner. A program cohort is a fiscal year (i.e., the year of the subsidy appropriation which transferred funds to the financing account at the point of private lender disbursement). This data must be maintained as a unit throughout the life of the guarantee, including transfer of defaulted loans to the government. This data is the primary unit to be used for the purpose of subsidy reestimation.

- F. *Account*: The account level is the budget account used for the program. As a minimum, the agency's general ledger that supports the credit program must be maintained at the account level including data on the face value and the guaranteed value of guaranteed loans.

8. *Designing Reports from Private Lenders.*

- A. Lenders must submit reports, at least monthly, to provide data which measures the program level of guaranteed loan commitments and lender disbursements for the purpose of insuring program level fund control. Credit agencies, at their option, may also require subsidy data from the lender especially if subsidy controls are allocated to lenders. Information to support monthly needs would include such data elements as:

- New loan guarantee commitments.
- Lender disbursements during the month, by cohort.

- Total undisbursed loan guarantee commitments.
 - Defaulted loan claims submitted during the month.
 - Subsidy value of undisbursed loans committed during the month (optional).
 - Cumulative subsidy value of disbursed loans (optional).
- B. Quarterly reports would measure the progress of repayments or delinquency status of the loans. Information to support quarterly needs would include such data elements as:
- Outstanding guaranteed loans beginning of quarter.
 - Repayment of loans by borrower to private lender.
 - Defaulted loans during quarter.
 - Other adjustments during quarter.
 - Outstanding guaranteed loans at the end of quarter.
 - Contingent liability for outstanding guarantees.
 - Delinquency analysis (for SF 220-8).
- C. The report design must consider the needs of the agency data base and, therefore, should include subdivisions of data by program cohort, risk category, and financing tranche.
9. *Processing of Cash Collections.*
- A. The system must be capable of segregating cash collections into the following categories at a minimum:
- Collections of subsidies from the program account, including modifications and reestimates.*
 - Collections of interest from Treasury.*
 - Collections of fees further segregated between fees at origination and post-origination (annual or monthly) fees.*
 - Borrowing from Treasury (in those instances when borrowings are necessary).
 - Collections from liquidating account for modifications of pre-1992 guarantees.*
 - Any other subdivision of collections reported on the program and financing schedule or Treasury schedules.
- B. In the case of defaulted loans transferred to the government for servicing, the following categories also must be maintained:
- Collections of principal.
 - Collections of interest from borrowers.
 - Collections of late charges subdivided among delinquency interest, penalties, and administrative charges.
 - Collections from sale of acquired collateral.*
 - Gross sale price.
 - Net collections.
 - Collections of rental income.
 - Collections of prepayment penalties.*
- C. Cash collections will be applied in the system in the following manner:
- Collections of new guarantee subsidies will be deposited in the financing account and will be used to pay loan default claims, interest payments to lenders, any principal or interest payments to Treasury, and operations and maintenance costs related to acquired collateral.

* Asterisked items may not be currently segregated in credit agency systems, but must be segregated for 1992 loans.

- Collections of fees, interest from the Treasury, and any other income will be deposited in the financing account and will be used to pay the above costs.
- Collections from servicing defaulted loans will be deposited in the financing account and will be used to pay program costs.
- In order to service acquired collateral, cash balances will be set aside in a separate internal allocation (in some programs) to pay the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from sales proceeds. Refer to section 16 below and to section 6.B. on direct loan systems (Appendix C) for further details.
- Borrowings from the Treasury should be kept to the minimum practical balance. Agencies should redeem Treasury debt at the first semiannual payment cycle, if cash balances in the financing tranche are sufficient.

10. *Processing of Guaranteed Loan Commitments and Other Expenses.*

- A. The accounting system will commence tracking guaranteed loans at the point of commitment by the lender and will also maintain data that indicate disbursement of the loans by the lender.
- B. The program account will record a subsidy obligation at the commitment stage and transfer the subsidy to the financing account when the lender disburses the loan.
- C. The system must be capable of associating a Treasury interest rate (financing tranche) with each disbursed guaranteed loan. Other sections of this appendix provide further details.
- D. The system must be capable of associating interest and fee expenses (paid) to private lenders with a financing tranche. The tranche is assigned on the basis of the underlying guarantee that generates the fee expenses.
- E. The system must be capable of associating interest expenses (and payments) to Treasury with a financing tranche. The tranche is assigned on the basis of the time of disbursement of the guaranteed loan as discussed below.
- F. Normally, sufficient cash reserves should be available to meet the program costs of guaranteed loans without borrowing from Treasury. However, indefinite borrowing authority may be used where cash balances in the financing TRANCHE are not sufficient to meet program costs. Borrowing transactions are decided on the basis of inadequate balances in each financing tranche even though sufficient cash may be available in other financing tranches. The principal amount of borrowings will be repaid semiannually (March 31 and September 30) if there are sufficient balances in the tranche after interest payments. Payments of interest to Treasury will be made monthly through refinancing and new borrowing if necessary. The tranche must outlay interest to Treasury monthly. Reestimates of subsidy will be deposited in the financing tranche.
- G. The system must be capable of classifying costs related to acquired collateral, separately from other costs, and associating these costs with internal limitations on working capital cash balances.

11. *Processing of Loan Disbursements and Other Expenses.*

- A. All disbursements from the financing account will be paid from collections or, if necessary, borrowing authority. While the nature of the borrowing authority is indefinite, it cannot be used until apportioned by OMB. Payments must be segregated by (1) default claims, (2) interest payments to Treasury, (3) fees to lenders, (4) interest supplement payments to lenders, and (5) working capital expenses.
- B. Payments must be associated with the financing tranche associated with the underlying guaranteed loan. Disbursements will be subtracted daily from the balance in each financing tranche to determine (1) the daily balance of uninvested funds or (2) the daily balance of outstanding borrowings from the Treasury.

12. *Special Processing Requirements for Modified Loan Guarantees.*—Loan guarantees which have been modified require a payment of subsidy from the program account to the financing account.

Other sections of this Circular provide instructions on the transactions that are used for modified loan guarantees.

- A. *Pre-1992 loan guarantees.* The face value of the loan guarantee will be transferred from the liquidating account to the financing account. The loan guarantee will be assigned to a special cohort for pre-1992 modified loan guarantees. The tranche will be assigned on the basis of the date the modification agreement is signed. The interest rate applicable to the remaining term of the loan (as modified) will be applied to the borrowing from Treasury related to this transaction. The special cohort transcends program year. A single cohort will handle ALL pre-1992 loan guarantee modifications. An adjusting payment will be made from the liquidating account to the financing account. The computation of this adjusting payment is outlined in section 62.9 of this Circular, describing modifications. This collection must be deposited in the financing tranche of the modified loans and will be used to pay any expenses related to the loans in the tranche.
 - B. *Post-1991 loan guarantees.* The loan guarantee will retain its ORIGINAL cohort, risk category, and financing tranche identification. The program account will deposit a subsidy into the financing account. This collection will be identified with the ORIGINAL financing tranche, which will accumulate uninvested funds to pay default and other expenses. The original interest rate for the financing tranche will be used.
13. **Fund Controls.**—The system must be capable of simultaneously determining, at the commitment stage, whether sufficient budget authority for the subsidy exists in the program account and whether a sufficient unused loan level limit exists in the financing account. The system for calculating subsidies must also be capable of changing the subsidy calculation when the Treasury interest rate changes. (Rate changes do not affect committed but undisbursed loans.)
 14. **Financing Tranche Interest Earnings, Except Working Capital Cash Balances.**—As of the quarter of each lender disbursement, the system must assign the appropriate interest rate to be used for computing interest earned from the Treasury on uninvested balances deriving from subsidies, fees, and other collections. Agencies should consider a module to accumulate and compute this data for each financing tranche within a cohort since it is not required at the lender level. From a functional standpoint this module must:
 - A. Compute interest earnings from Treasury on a daily basis and collect interest from Treasury on a monthly basis. This computation is based on unexpended cash balances (including past interest collections).
 - B. Pass summary interest earnings accrual data to the general ledger.
 - C. Post summary of interest payments from Treasury to each financing tranche.
 - D. Maintain identity of tranche to risk category and cohort for comparing estimated and actual cash flows at the risk category and cohort levels. However, tranches within a cohort may be combined in ways that produce the same interest computations, if approved by Treasury and the OMB representative with primary budget responsibility for the account.
 - E. Compute monthly, quarterly, annually, and “since inception” the following data:
 - Interest earned from Treasury.
 - Collections segregated by the classes outlined in section 6. (Optional)
 15. **Financing Tranche—Interest Expenses.**—If borrowing from Treasury becomes necessary because cash balances are insufficient, each tranche must maintain data on outstanding borrowings. From a functional standpoint this module must:
 - A. Compute Treasury interest accrued on a daily basis and pay interest to Treasury on a monthly basis. As an option, this interest payment may be computed monthly on the basis of the average daily amount of debt.
 - B. Borrow to pay any unpaid interest if cash balances in the tranche are not sufficient.
 - C. Compute interest expenses on a monthly basis for each tranche.
 - D. Pass summary interest accrual data to the general ledger.

- E. Post new borrowing data each day summarized by date of borrowing and interest rate.
 - F. Compute current borrowing and interest outstanding.
 - G. Compute monthly, quarterly, annually, and "since inception" the following data:
 - Interest expense.
 - New borrowing.
 - Repayments (redemption of debt).
16. **Interest Earnings—Working Capital Cash Balances.**—Working capital cash balances will be maintained within the financing account to pay certain specified costs of servicing collateral acquired by the credit agency. These balances will be derived from all collections. The basis for transferring funds to the working capital balances should be negotiated with each agency's budget examiner; however, it should reasonably reflect the operating costs of each cohort. Some methods to consider would be: (1) a fixed amount associated with each piece of acquired collateral; (2) a percentage of general collections within each cohort that has acquired collateral; or (3) a percentage of general collections for all cohorts. Daily unused cash balances would earn interest from the Treasury on the basis of a general short-term rate set by the Treasury. The only costs that may be paid from these balances are the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from sales proceeds. From a functional standpoint this module must:
- A. Post all collections or transfers daily.
 - B. Post all operations and maintenance disbursements daily.
 - C. Compute the daily ending accumulated cash balance.
 - D. Compute Treasury interest earned daily and pass accruals to general ledger.
 - E. Compute monthly, quarterly, annually, and "since inception" data on Treasury interest earnings and working capital disbursements.
 - F. Report data without regard to cohort or financing tranche.
17. **Subsidy Reestimate Data.**—The system must maintain cash flow data which permits comparison of actual cash flows each year (and new estimates of future cash flows) to the cash flows used in computing the latest subsidy estimate for an individual risk category and cohort. This comparison will be used by analysts to determine whether a subsidy reestimate is necessary, as well as the reasons for the subsidy variance. In order to support this computation, segregation of cash collections and disbursements discussed earlier must be maintained in the credit data base. Outputs should be designed in conjunction with analysts to support the reestimate process.
18. **Data for External Reports.**—In order to support external reporting requirements for guaranteed loans, the commitment and obligation data in the financing account must be segregated by:
- A. Loan guarantee commitments.
 - B. Defaulted loans claim payments.
 - C. Interest expense to Treasury.
 - D. Costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from sales proceeds.
 - E. Fee and interest supplement payments to lenders.

Collections data must be maintained as outlined in previous sections.

In the program account, obligations must be segregated by guaranteed loan subsidy and by administrative expenses. Further subdivisions within these categories may be necessary depending upon the program and budget examiner requirements.

Systems designers should also review the requirements of Treasury Department reports (e.g., SF 220-8) in designing information requirements of the system.

Direct Loan Activities Financed by Administrative Expenses

FEDERAL OVERSIGHT

CREDIT POLICY AND OVERSIGHT ACTIVITIES

Development of direct loan program, policy,
and regulations.
Monitoring and reporting of portfolio status.
Maintenance and development of credit
management financial accounting systems.

THE FEDERAL CREDIT CYCLE

I. CREDIT EXTENSION ACTIVITIES (review and approval of requests for Government credit)

Borrower counseling and receipt of applications.
Screening (including purchase
of credit reports).
Credit analysis, rating, and scoring.
Underwriting.
Loan approval and closing.
Appraisals of collateral.

II. LOAN SERVICING ACTIVITIES (billing and collection, in-house or by contract)

Billing.
Collection and recording of payments.
Monitoring and reporting.
Borrower counseling and correspondence.

III. DELINQUENT DEBT COLLECTION ACTIVITIES (recovery of delinquent amounts)

Borrower counseling and workout.
Rescheduling and restructuring.
Reporting to credit bureaus.
Special collection techniques, including:
Private collection agencies;
Tax refund offset;
Federal salary offset;
Agency litigation; and
Justice litigation.
Foreclosure on property*.
Managing property*.
Selling property*.

IV. WRITE-OFF AND CLOSE-OUT ACTIVITIES (after debt is determined uncollectible)

Write-off.
Close-out.
Reporting to IRS (Form 1099G).

*Include as administrative expenses unless capitalized or routinely
deducted from proceeds of sales.

Guaranteed Loan Activities Financed by Administrative Expenses

FEDERAL OVERSIGHT

CREDIT POLICY AND OVERSIGHT ACTIVITIES

Development of guaranteed loan program, policy, and regulations.
Monitoring and reporting of portfolio status.
Maintenance and development of credit management financial accounting systems.
Lender certification.
Statistical and on-site lender review.

THE FEDERAL CREDIT CYCLE

I. CREDIT EXTENSION ACTIVITIES (review and approval of requests for Government credit)

Approval of loan guarantees.
Review of loan documentation (when lender commitments do not require prior approval).
Underwriting.
Note: Government's role depends on level of loan approval delegated to private lenders.

FOR DEFAULTED GUARANTEED LOANS

II. LOAN SERVICING ACTIVITIES (billing and collection, in-house or by contract)

Billing.
Collection and recording of payments.
Monitoring and reporting.
Borrower counseling and correspondence.

III. DELINQUENT DEBT COLLECTION ACTIVITIES (recovery of delinquent amounts)

Claims review and payment.
Borrower counseling and workout.
Rescheduling and restructuring.
Reporting to credit bureaus.
Special collection techniques, including:
Private collection agencies;
Tax refund offset;
Federal salary offset;
Agency litigation; and
Justice litigation.
Foreclosure on property*.
Managing property*.
Selling property*.

IV. WRITE-OFF AND CLOSE-OUT ACTIVITIES (after debt is determined uncollectible.)

Write-off.
Close-out.
Reporting to IRS (Form 1099G).

*Include as administrative expenses unless capitalized or routinely deducted from proceeds of sale.

Relationship Between Administrative and Non-Administrative Expenses in Program Accounts and Financing Accounts

PROGRAM ACCOUNT		FINANCING ACCOUNT
ADMINISTRATIVE EXPENSES (See Exhibits 62A&B)	SUBSIDY COSTS	CASH FLOWS
<p>Common overhead expenses approved by OMB.</p> <p>Cost of POLICY AND OVERSIGHT (includes cost of credit systems development and maintenance; under no circumstances will computer systems costs be paid out of subsidy or from financing account).</p> <p>Cost of CREDIT EXTENSION ACTIVITIES.</p> <p>Cost of LOAN SERVICING ACTIVITIES.</p> <p>Cost of DELINQUENT DEBT COLLECTION ACTIVITIES (excluding cost of foreclosure, management, and sale of collateral if capitalized or routinely deducted from the proceeds from sales. See section 62.5.)</p> <p>Cost of WRITE-OFF and CLOSE-OUT ACTIVITIES.</p>	<p>The subsidy is the difference between the present value of cash inflows to the Government and the present value of the cash outflows (excluding administrative expenses).</p> <p>The subsidy will be paid (obligated and outlayed) to the financing account.</p>	<p><i>Cash inflows</i></p> <ol style="list-style-type: none"> From borrowers: <ul style="list-style-type: none"> Fees Loan repayments Interest Late charges Prepayment penalties From Treasury: <ul style="list-style-type: none"> Borrowing Interest From program account: <ul style="list-style-type: none"> Subsidy From liquidating account: <ul style="list-style-type: none"> Modified guarantees From others: <ul style="list-style-type: none"> Proceeds from collateral <p><i>Cash outflows</i></p> <ol style="list-style-type: none"> To borrowers: <ul style="list-style-type: none"> Direct loans. To Treasury: <ul style="list-style-type: none"> Interest Principal borrowed To private lenders: <ul style="list-style-type: none"> Defaulted guaranteed loan claims. Interest supplements. To liquidating account: <ul style="list-style-type: none"> Modified direct loans To others: costs associated with selling collateral that are capitalized or routinely deducted from proceeds from sales. (See section 62.5.)

Illustration of Modification of a Pre-1992 Direct Loan

PROGRAM ACCOUNT

A. Pay the financing account:

1. Record obligations against new BUDGET AUTHORITY in the amount of the increase in the subsidy due to the modification.
2. Record an OUTLAY to the financing account in the amount of the increase in the subsidy.

FINANCING ACCOUNT

B. Receive the payment from the program account:

1. Record OFFSETTING COLLECTIONS.

LIQUIDATING ACCOUNT

D. Receive one-time adjusting payment from financing account:

1. Record OFFSETTING COLLECTIONS.
2. Transfer loan asset to financing account.

C. Make one-time adjusting payment to liquidating account:

1. Payment calculated as the NPV of remaining cash flows under the existing contract.
2. For the payment, use:
 - a. The offsetting collections from the financing account.
 - b. Borrow rest from Treasury.
3. Record the DISBURSEMENT.
4. Receive the loan asset from the liquidating account.

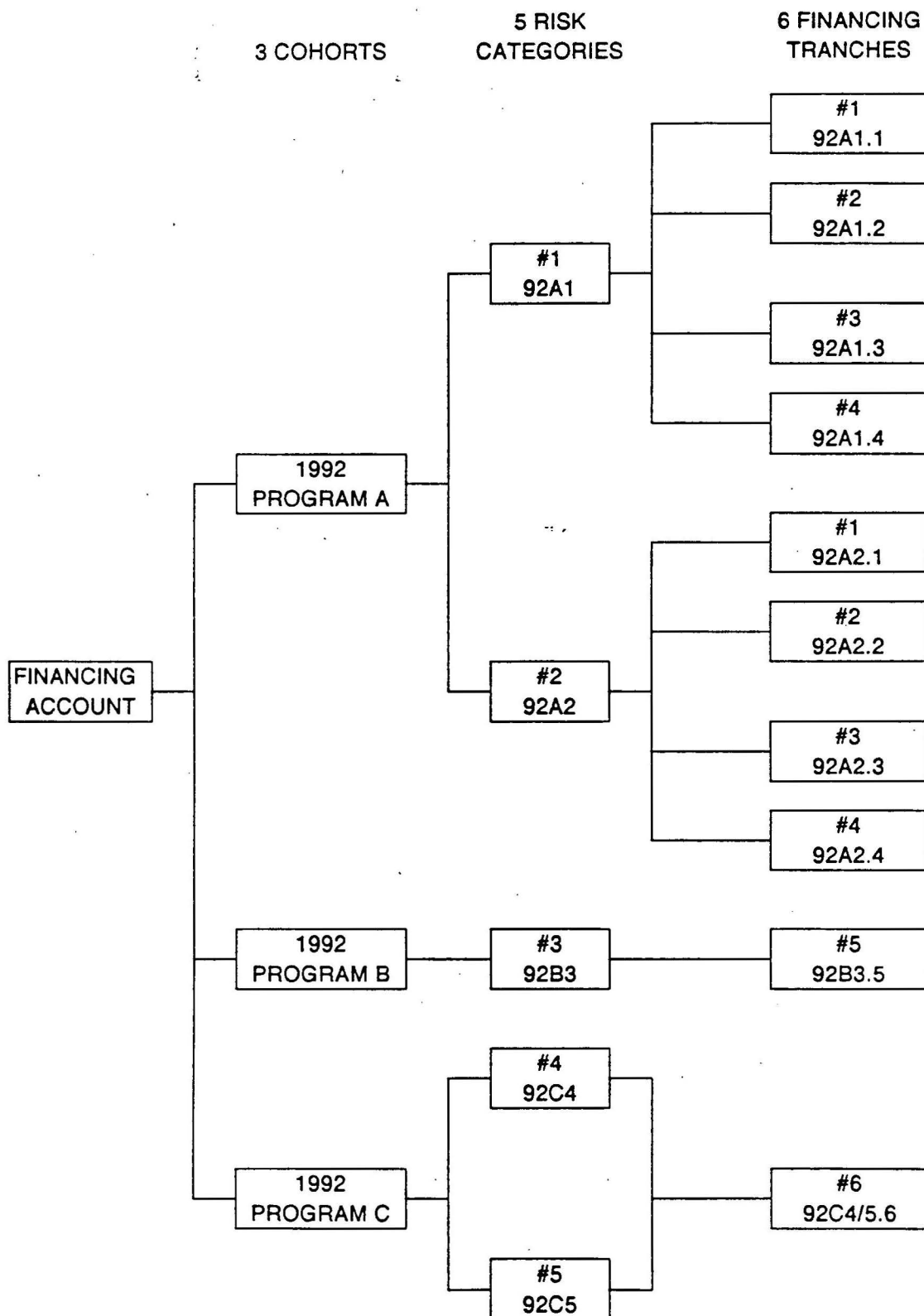
E. Pay back Treasury:

1. Pay back Treasury borrowing, if any.
2. Record the rest as a capital transfer to the general fund of the Treasury.

F. Pay back Treasury:

1. Collect proceeds from outstanding loan.
2. Pay Treasury interest and repay principal amount borrowed.

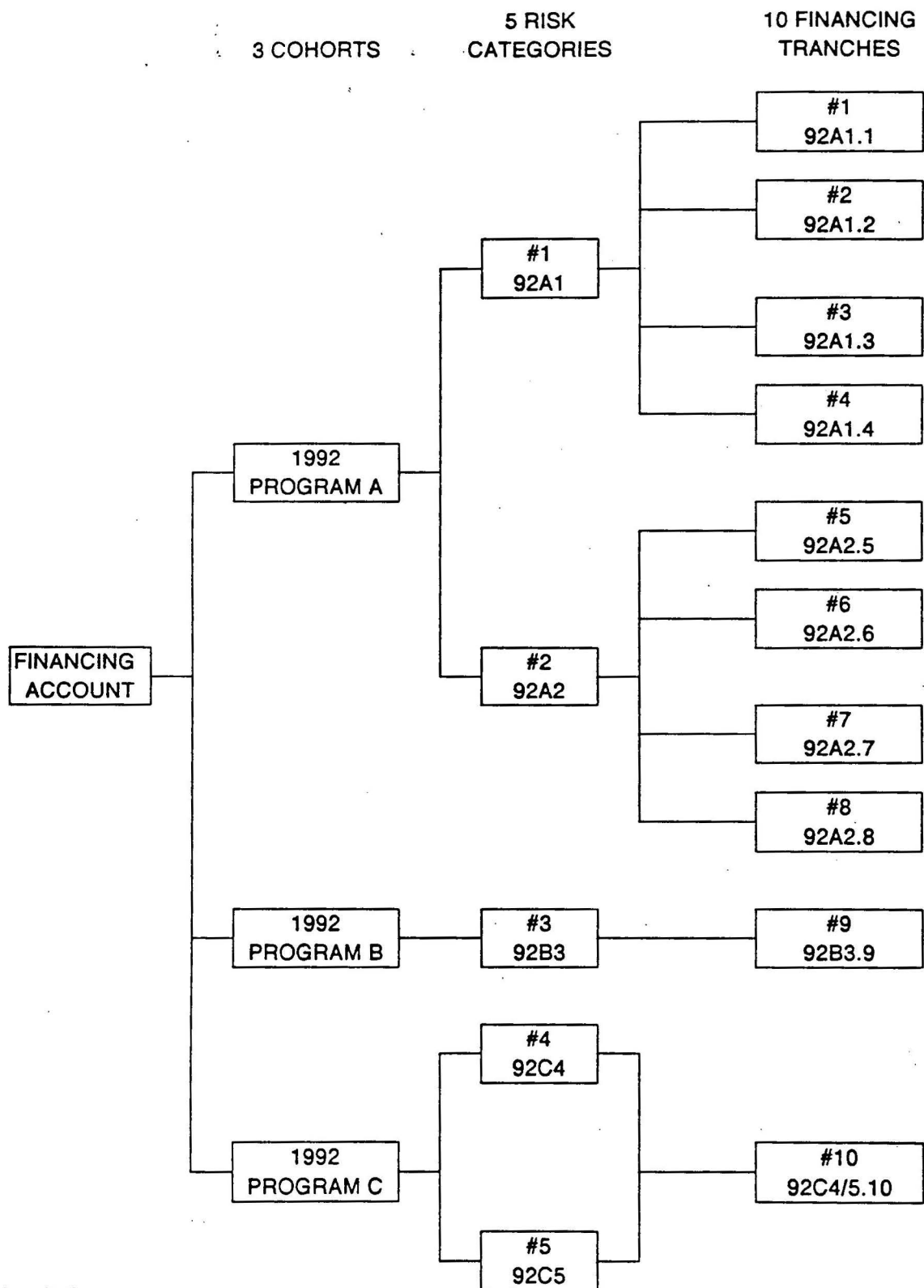
Cohorts, Risk Categories, and Tranches: Possible Combinations



OMB CIRCULAR
NO. A-34

Ex-41.5

Cohorts, Risk Categories, and Tranches: Possible Combinations—continued



Ex-41.6

OMB CIRCULAR
NO. A-34

Direct Loan Program Account

Sample Appropriation Language

For the cost of direct loans, \$1,479,000, as authorized by [cite authorizing statute]: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$5,000,000.

In addition, for administrative expenses to carry out the direct loan programs, \$1,000,000.

Program and Financing Schedule (In thousands of dollars)	
Program by activities:	
00.01 Direct loan subsidy	1,479
00.07 Administrative expenses	1,000
10.00 Total Obligations	2,479
Financing:	
40.00 Budget Authority	2,479
Relation of Obligations to Outlays	
71.00 Total Obligations	2,479
74.00 Obligated Balance, eoy	(740)
90.00 Outlay	1,739

Summary of Loan Levels, Subsidy BA, and Outlays by Program (in thousands of dollars)	
Direct loan levels supported by subsidy budget authority:	
1150 Section X Loans	5,000
Direct loan subsidy rates (in percent)	
1320 Section X Loans	29.58
Direct loan subsidy budget authority:	
1330 Section X Loans	1,479
1340 Direct loan subsidy outlays	739

Direct Loan Financing Account

Program and Financing Schedule (in thousands of dollars)		
Program by activities:		
00.01 Direct loans	5,000	
00.02 Interest paid to Treasury	75	
10.00 Total Obligations	5,075	
Financing:		
39.00 Financing authority (gross)	5,075	
Financing account:		
67.15 Authority to borrow (indefinite)	3,521	
68.00 Spending Authority from offsetting collections	1,877	
68.47 Portion applied to debt reduction	(323)	
68.90 Spending Authority from offsetting collections (adjusted)	1,554	
Relation of Obligations to Outlays:		
71.00 Total obligations	5,075	
74.90 Obligated balances, end of year:		
Unpaid obligations	(2,500)	
Receivables from Federal sources	740	
87.00 Financing disbursements (gross)	3,315	
Adjustments to financing authority and outlays:		
Deductions for offsetting collections:		
88.00 Federal sources: program account	(1,479)	
88.40 Non-Federal sources:		
Repayments of principal	(325)	
Collections of interest	(73)	
88.90 Total offsetting collections	(1,877)	
89.00 Financing authority (net)	3,198	--> 5,075 - 1,877 = 3,198
90.00 Financing disbursements (net)	1,438	--> 3,315 - 1,877 = 1,438

Portfolio Condition, Credit Reform Valuation (in thousands of dollars)		
ASSETS		
1100 Accounts receivable: Program account	740	
1800 Cumulative balance of direct loans disbursed, net of scheduled repayments	2,175	
1805 Unamortized subsidy (-)	(737)	
1809 Subtotal, cumulative balance of direct loans, credit reform value	1,438	
1999 Total assets	2,178	
LIABILITIES		
2615 Intragovernmental debt: Debt to Treasury	1,438	
2999 Total liabilities	1,438	
EQUITY		
3200 Appropriated fund equity: Appropriated capital	740	
3999 Total equity	740	

Status of Direct Loans (in thousands of dollars)		
Position with respect to appropriations act limitation:		
1111 Limitation on direct loans	5,000	
Cumulative balance of direct loans outstanding:		
1210 Outstanding, start of year	0	
Disbursements:		
1231 Direct loan disbursements	2,500	
Repayments		
1251 Repayments and prepayments (-)	(325)	
1290 Outstanding, end of year	2,175	

Ex-41.8

OMB CIRCULAR
NO. A-34

Illustration of an Initial Direct Loan Apportionment of Both Program and Financing Accounts

Standard Form 1420L Office of Management and Budget Circular No. A-34		APPORTIONMENT SCHEDULE*				Page 1 of 1 Fiscal Year: 1992	
Agency: Department of Government		DIRECT LOANS		Agency Request		Action by OMB	
Account: XX-XXXX		Program	Financing	Program	Financing	Program	Financing
Federal Resources							
1. Budget and Financing Authority:							
a. Subsidy: current definite			1,479				
b. Subsidy: current indefinite							
c. Administrative expenses			1,000				
d. Subsidy: permanent indefinite							
e. Permanent indefinite authority to borrow					3,521		
2. Unobligated balance:							
a. Brought forward, October 1							
b. Net transfers (+ or -)							
3. Offsetting collections from:							
a. Non-Federal sources:							
(1) Fees collected							
(2) Collections of principal					325		
(3) Collections of interest					73		
(4) Proceeds from collateral							
(5) Earned or anticipated but not collected							
b. Federal sources:							
(1) Subsidy: current definite					739		
(2) Subsidy: permanent indefinite							
(3) Subsidy: current indefinite							
(4) Interest from Treasury							
(5) Accounts receivable					740		
4. Recoveries of prior year obligations:							
a. Actual							
b. Anticipated for rest of year							
5. Portion not available pursuant to P.L. ____ (-)							
6. Portion applied to debt reduction							
a. Paid (-)					(323)		
b. Accounts payable (-)							
7. Total Resources			2,479		5,075	2,479	5,075
Application of Resources							
8. Apportioned:							
Category A							
(1) First quarter							
(2) Second quarter							
(3) Third quarter							
(4) Fourth quarter							
Category B							
(1) Direct loan subsidy			1,479			1,479	
(2) Direct loan level					5,000		5,000
(3) Interest to Treasury					75		75
(4) Administrative expenses			1,000			1,000	
(5) Capitalized costs, etc. **							
(6) Payments to liquidating account							
(7) Payments to receipt account							
9. Withheld pending rescission							
10. Deferred							
11. Unapportioned balance							
12. Total Resources			2,479		5,075	2,479	5,075
Submitted:		8/21/91		Apportioned:			
(Authorized Officer)		(Date)		(Date)			
* Amounts in thousands of dollars. ** Includes costs that are routinely deducted from the proceeds from sales.							

OMB CIRCULAR
NO. A-34

Ex-41.9

Recording Obligations, Disbursing Loans, and Reestimating Subsidies

ILLUSTRATION ASSUMPTIONS: Appropriations for FY 1992 are enacted on a timely basis; budgetary resources for loans are apportioned; loans are obligated during the fiscal year but not disbursed until the subsequent fiscal year; and the interest rate used to calculate the subsidy is different at the time of actual disbursement of the loan than at the time of obligation.

1. Estimate the cost when the loan is obligated (FY 1992) in order to know how much to obligate.
For the interest rate, use the rate, applicable to the quarter of obligation, on marketable Treasury securities of similar maturity. For other technical assumptions, use the factors in the budget estimates for the year in which the subsidy was proposed, unless legislation has changed the terms under which the program makes or guarantees loans.
2. Disburse the loan (FY 1993). Use the subsidy computed above and borrow the rest from Treasury.
Accrue interest expense on borrowing, use the interest rate applicable to the quarter of disbursement (not illustrated here).
3. At the beginning of the fiscal year after the fiscal year in which the loan is disbursed (FY 1994), reestimate the subsidy to use the actual interest rate applicable to the quarter of disbursement. If the subsidy is increased, request apportionment of the permanent indefinite appropriations in the program account and the related offsetting collections in the financing account. Upon reapportionment, the program account pays the financing account and the financing account pays back Treasury at the time of the next repayment of principal.

	FY 1991	FY 1992	FY 1993		FY 1994	
	Authority Enacted	Loan Obligated (1)	Actual Disbursement (2)		Year after disbursement:	
					Reestimate Transactions (3)	Result of Reestimate (4)
Subsidy	50	40	40	Use permanent appropriations from program account Repay debt to Treasury No effect on loans outstanding	5	45
Borrow rest from Treasury	50	60	60		-5	55
Total loans outstanding	100	100	100		0	100

4. If the subsidy was reestimated downward (not illustrated here), pay the difference into a special fund receipt account.
5. Separately reestimate the subsidy for other technical factors. Do this annually.

Illustration of a Final Report for a Direct Loan Program Account

Standard Form 1430LP Office of Management and Budget Circular No. A-34		REPORT ON EXECUTION* (FINAL) DIRECT LOANS - PROGRAM ACCOUNT		Page 1 of 1 Period ended: 9/30/92			
Agency: Department of Government Account: XX-XXXX		Account Total	Unexpired 1992	Expired**			
Federal Resources							
1. Budget and Financing Authority:							
a. Subsidy: current definite		1,479	1,479				
b. Subsidy: current indefinite							
c. Administrative expenses		1,000	1,000				
d. Subsidy: permanent indefinite							
2. Unobligated balance:							
a. Brought forward, October 1							
b. Net transfers (+ or -)							
3. Offsetting collections from:							
a. Non-Federal sources							
b. Federal sources							
4. Recoveries of prior year obligations:							
a. Actual							
b. Anticipated for rest of year							
5. Portion not available pursuant to P.L. _____ (-)							
6. Portion applied to debt reduction							
a. Paid (-)							
b. Accounts Payable (-)							
7. Total Resources		2,479	2,479				
Status of Resources							
8. Obligations incurred:							
a. Direct loan subsidy		1,479	1,479				
b. Administrative expenses		1,000	1,000				
c. Subsidy for modifications							
d. Subsidy for reestimates							
9. Unobligated balances available:***							
a. Direct loan subsidy		0	0				
b. Administrative expenses		0	0				
c. Subsidy for modifications							
10. Unobligated balances not available:							
a. Apportioned for subsequent period							
b. Withheld pending rescission							
c. Deferred							
d. Unapportioned balance							
e. Other balances not available							
11. Total Resources		2,479	2,479				
Relation of Obligations to Outlays							
12. Obligations incurred, net		2,479	2,479				
13. Net unpaid obligations:							
a. Obligated balances, as of October 1							
b. Obligated balances, net transferred							
c. Obligated balances, end of period		740	740				
14. Outlays (net)		1,739	1,739				
Submitted:.....				11/15/92			
(Authorized Officer)				(Date)			
* Amounts in thousands of dollars.							
** During the first year there will be no predecessor expired accounts.							
*** This case assumes that the total subsidy was obligated. See exhibit 66A. If there are any unobligated balances lapsing, then the amounts should be placed on the appropriate line with the following footnote: These amounts have lapsed.							

Illustration of a Final Credit Execution Report for a Direct Loan Financing Account

Standard Form 1430LF Office of Management and Budget Circular No. A-34		REPORT ON EXECUTION* (FINAL) DIRECT LOANS - FINANCING ACCOUNT					Page 1 of 1 Period ending: 9/30/92
Agency: Department of Government		Account	1992 Cohort for Each Program				
Account: XX-XXXX		Total	Program A	Program B	Program C	Program D	Program E
Federal Resources							
1. Budget and Financing Authority:							
a. Permanent indefinite authority to borrow		3,521	352	704	528	1,056	880
2. Unobligated balance:							
a. Brought forward, October 1							
b. Net transfers (+ or -)							
3. Offsetting collections from:							
a. Non-Federal sources:							
(1) Fees collected							
(2) Collections of principal		325	33	65	49	98	81
(3) Collections of interest		73	7	15	11	22	18
(4) Proceeds from collateral							
(5) Earned or anticipated but not collected							
b. Federal sources:							
(1) Subsidy: current definite		739	74	148	111	222	185
(2) Subsidy: permanent indefinite							
(3) Interest from Treasury							
(4) Accounts receivable		740	74	148	111	222	185
4. Recoveries of prior year obligations:							
a. Actual							
b. Anticipated for rest of year							
5. Portion not available pursuant to P.L. _____ (-)		(323)	(32)	(65)	(48)	(97)	(81)
6. Portion applied to debt reduction							
a. Paid (-)							
b. Accounts payable (-)							
7. Total Resources		5,075	508	1,015	761	1,523	1,269
Status of Resources							
8. Obligations incurred:							
a. Direct loan level		5,000	500	1,000	750	1,500	1,250
b. Interest payments to Treasury		75	8	15	11	23	19
c. Capitalized costs, etc.**							
d. Payments to liquidating account							
e. Payments to receipt account							
9. Unobligated balances available:							
a. Direct loan level							
b. Interest payments to Treasury							
c. Capitalized costs, etc.**							
d. Payments to liquidating account							
e. Payments to receipt account							
10. Unobligated balances not available:							
a. Apportioned for subsequent period							
b. Withheld pending rescission							
c. Deferred							
d. Unapportioned balance							
e. Other balances not available							
11. Total Resources		5,075	508	1,015	761	1,523	1,269
Relation of Obligations to Disbursements							
12. Obligations incurred, net							
13. Net unpaid obligations:							
a. Obligated balances, as of October 1		3,938	394	788	591	1,181	985
b. Obligated balances, net transferred							
c. Obligated balances, end of period		1,760	176	352	264	528	440
14. Disbursements (net)		2,178	218	436	327	653	545
Submitted:							11/15/92
(Authorized Officer)							(Date)
* Amounts in thousands of dollars.							
** Includes costs that are routinely deducted from the proceeds of sales.							

Ex-41.12

OMB CIRCULAR
NO. A-34

Fiscal Year 1993 End of Year Report—Direct Loan Program Account

ILLUSTRATION OF THE IMPACT OF FY 1992 COHORTS ON FY 1993 BECAUSE OF
(1) SUBSIDY REESTIMATE DUE TO INTEREST CHANGES AND (2) DISBURSEMENT IN
FY 1993 FOR SOME DIRECT LOANS OBLIGATED IN FY 1992.

ASSUMPTIONS:

An increase in the interest rate between obligation and disbursement caused the subsidy rate to increase from 29.58% to 40%. Indefinite appropriations in the amount of \$261K are apportioned in the program account to cover the reestimate for those loans that had been disbursed. The \$261K are recorded as obligations and outlays in the program account and as offsetting collections in the financing account (see exhibit 66I).

If all loans had been disbursed in FY 1992, the subsidy would have increased from \$1479K to \$2000K or an increase of \$521K. Since half of the loans were disbursed in FY 1992, the increase is \$261K.

Credit Execution - SF 143DLP for Direct Loans (in thousands of dollars)			
Agency: Department of Government	Account	Unexpired	Expired
Account: XX-XXXX	Total	1993	1992
Federal Resources			
1. Budget and financing authority:			
a. Subsidy: current definite			
d. Subsidy: permanent indefinite	261	261	
7. Total Resources	261	261	
Status of Resources			
8. Obligations incurred			
a. Direct loan subsidy	261	261	
b. Administrative expenses			
9. Unobligated balances available:			
a. Direct loan subsidy			
b. Administrative expenses			
11. Total Resources	261	261	
Relation of Obligations to Outlays			
12. Obligations incurred, net	261	261	
13. Net unpaid obligations:			
a. Obligated balance, as of October 1	740	0	740
b. Obligated balance, end of period	0	0	0
14. Outlays (net)	1,001	261	740
Submitted:.....	11/15/93		
(Authorized Officer)	(Date)		

Only applicable lines shown

The reestimate is calculated in the subsequent year.

It is apportioned and obligated.

And outlayed.

The FY 1992 eoy obligated balance is disbursed in FY 1993.

Guaranteed Loan Program Account

Sample appropriation language and P&F schedule

For the cost of guaranteed loans, \$24,292,000, as authorized by [cite authorizing statute]: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed \$4,117,333,000: Provided, That the agency shall collect a guarantee fee equal to five per centum of the amount of the deferred participation (guaranteed) share of any loan made under this act: Provided further, That the Administration's participation shall not exceed 75 per centum of the principal amount of the loan.

In addition, for administrative expenses necessary to carry out the guaranteed loan programs, \$1,000,000.

P & F Schedule (In thousands of dollars)	
00.02 Guaranteed loan subsidy	24,292
00.07 Administrative expenses	1,000
10.00 Total Obligations	25,292
Financing:	
40.00 Budget Authority	25,292
Relation of obligations to outlays	
71.00 Total Obligations	25,292
74.40 Obligated balance, end of year	2,429
90.00 Outlays	22,863

<-----| 24,292K x .10
because 90% of the total
will be disbursed during
the fiscal year. See
Exhibit 67B.

Summary of Loan Levels, Subsidy BA, and Outlays by Program (in thousands of dollars)	
Guaranteed loan levels supportable by subsidy budget authority:	
2150 General Loans	4,117,333
Guaranteed loan subsidy rates (in percent)	
2320 General Loans	0.6
Guaranteed loan subsidy budget authority:	
2330 General Loans	24,292
Guaranteed loan subsidy outlays:	
2340 General Loans	21,863

Federal Government's Share of Guaranteed Loan Loan Levels on line 2150.	
General Loans	3,088,000

4,117,333 K
0.75
3,088,000 K

<-----|

Guaranteed Loan Financing Account

Program and Financing Schedule (in thousands of dollars)		
Program by activities:		21,863
00.01 Default Claims:	5,000	3,167
10.00 Total obligations (object class 42)	5,000	138,960
Financing:		(5,000)
24.90 Unobligated balance, end of year: Treasury balance	158,990	158,990
Financing authority:		
39.00 Financing authority (gross)	166,419	
68.00 Spending authority from offsetting collections	166,419	
Relation of obligations to outlays:		
71.00 Total obligations	5,000	
74.90 Obligated balances, end of year, receivables from Federal sources	2,429	
87.00 Financing disbursements (gross)	7,429	
Adjustments to financing authority and disbursements:		21,863
Deductions for offsetting collections:		2,429
88.00 Federal sources: Program account	(24,292)	24,292
88.25 Interest on uninvested funds	(3,167)	
88.40 Non-Federal sources: Fees	(138,960)	
88.90 Total, offsetting collections	(166,419)	166,419
89.00 Financing authority (net)	0	(7,429)
90.00 Financing disbursements (net)	(158,990)	158,990
Portfolio Condition, Credit Reform Valuation (in thousands of dollars)		
ASSETS		
Fund balance with Treasury and cash:		
1005 Unused subsidy balances: guaranteed loans	158,990	
Accounts receivable:		
1100 Program account	2,429	
Cumulative balance of loans, credit reform value:		
1859 Cumulative balance of defaulted guaranteed loans that result in loans receivable, credit reform value	3,000	
1999 Total assets	164,419	
LIABILITIES		
Other liabilities:		158,990
2805 Estimated Federal liability for loan guarantees, credit reform value	161,990	3,000
2999 Total liabilities	161,990	161,990
EQUITY		
3210 Appropriated capital: Cumulative results	2,429	
3999 Total equity	2,429	
Status of Guaranteed Loans (in thousands)		
Position with respect to appropriations act limitation on commitments:		
2111 Limitation on guaranteed loans made by private lenders	4,117,333	
2150 Total guaranteed loan commitments	4,117,333	
Cumulative balance of guaranteed loans outstanding:		4,117,333
2210 Outstanding, start of year	0	x .90
2231 Disbursements of new guaranteed loans	3,705,600	3,705,600
2251 Repayments: Repayments and prepayments (-)	0	
Adjustments:		
2261 Terminations for defaults that result in a loan receivable (-)	(5,000)	
2263 Terminations for defaults that result in claim payments (-)	(1,667)	
2290 Outstanding, end of year	3,698,933	3,698,933
MEMORANDUM		
2299 US contingent liability for guaranteed loans outstanding, end of year	2,774,200	x .75
		2,774,200

Ex-41.16

OMB CIRCULAR
NO. A-34

Initial Guaranteed Loan Apportionment of the Program and Financing Accounts

Standard Form 142GL Office of Management and Budget Circular No. A-34		APPORTIONMENT SCHEDULE*				Page 1 of 2 Fiscal Year: 1992	
Agency: Department of Government		Amount on latest SF 142		Agency Request		Action by OMB	
Account: XX-XXXX		Program	Financing	Program	Financing	Program	Financing
Program Level							
1. Guaranteed loan levels					4,117,333		4,117,333
2. Federal share supportable by subsidy (75%)					3,088,000		3,088,000
Application							
3. Apportioned:							
Category A							
(1) First quarter							
(2) Second quarter							
(3) Third quarter							
(4) Fourth quarter							
Category B							
(1) Guaranteed loan levels					4,117,333		4,117,333
(2) Federal share supportable by subsidy					3,088,000		3,088,000
Federal Resources							
1. Budget and Financing Authority:							
a. Subsidy: current definite				24,292			
b. Subsidy: current indefinite							
c. Administrative expenses				1,000			
d. Subsidy: permanent indefinite							
e. Permanent indefinite authority to borrow							
2. Unobligated balance:							
a. Brought forward, October 1							
b. Net transfers (+ or -)							
3. Offsetting collections from:							
a. Non-Federal sources:							
(1) Fees collected					138,960		
(2) Collections of principal							
(3) Collections of interest							
(4) Proceeds from collateral							
(5) Earned or anticipated but not collected							
b. Federal sources:							
(1) Subsidy: current definite					21,863		
(2) Subsidy: permanent indefinite							
(3) Interest from Treasury					3,167		
(4) Accounts receivable					2,429		
(5) Subsidy: current indefinite							
(6) Payments from liquidating account							
4. Recoveries of prior year obligations:							
a. Actual							
b. Anticipated for rest of year							
5. Portion not available pursuant to P.L. _____ (-)							
6. Portion applied to debt reduction							
a. Paid (-)							
b. Accounts payable (-)							
7. Total Resources				25,292	166,419	25,292	166,419
Submitted:		9/21/91		Apportioned:		9/30/91..	
(Authorized Officer)		(Date)		(Date)		(Date)	
* Amounts in thousands of dollars.							

OMB CIRCULAR
NO. A-34

Ex-41.17

Initial Guaranteed Loan Apportionment of the Program and Financing Accounts—continued

Standard Form 143GL Office of Management and Budget Circular No. A-34		APPORTIONMENT SCHEDULE*				Page 2 of 2 Fiscal Year: 1992	
Agency: Department of Government		Amount on latest SF 142		Agency Request		Action by OMB	
Account: XX-XXXX		Program	Financing	Program	Financing	Program	Financing
Application of Resources							
8. Apportioned:							
Category A							
(1) First quarter							
(2) Second quarter							
(3) Third quarter							
(4) Fourth quarter							
Category B							
(1) Guaranteed loan subsidy							
(a) Current definite				24,292		24,292	
(b) Current indefinite							
(c) Permanent indefinite							
(2) Default claims					5,000		5,000
(3) Interest to Treasury							
(4) Administrative expenses				1,000		1,000	
(5) Capitalized costs, etc.*							
(6) Interest supplements							
(7) Payments to receipt account							
9. Withheld pending rescission							
10. Deferred							
11. Unapportioned balance					161,419		161,419
12. Total Resources				25,292	166,419	25,292	166,419
Submitted:		9/21/91		Apportioned:		9/30/91..	
(Authorized Officer)		(Date)		(Date)		(Date)	
* Amounts in thousands of dollars.							
** Includes costs that are routinely deducted from the proceeds from sales.							

Guaranteed Loan Program Account Credit Execution Final Report

Standard Form 1439LP Office of Management and Budget Circular No. A-34		REPORT ON EXECUTION* (FINAL) GUARANTEED LOANS PROGRAM ACCOUNT		Page 1 of 1 Period ended: 09/30/92			
Agency: Department of Government		Account	Unexpired	Expired**			
Account: XX-XXXX		Total	1992				
Federal Resources							
1. Budget and Financing Authority:							
a. Subsidy: current definite		24,292	24,292				
b. Subsidy: current indefinite							
c. Administrative expenses		1,000	1,000				
d. Subsidy: permanent indefinite							
2. Unobligated balance:							
a. Brought forward, October 1							
b. Net transfers (+ or -)							
3. Offsetting collections from:							
a. Non-Federal sources							
b. Federal sources							
4. Recoveries of prior year obligations:							
a. Actual							
b. Anticipated for rest of year							
5. Portion not available pursuant to P.L. _____ (-)							
6. Portion applied to debt reduction							
a. Paid (-)							
b. Accounts payable (-)							
7. Total Resources		25,292	25,292				
Status of Resources							
8. Obligations incurred:							
a. Guaranteed loan subsidy		24,292	24,292				
b. Administrative expenses		1,000	1,000				
c. Subsidy for modifications							
d. Subsidy for reestimates							
9. Unobligated balances available:							
a. Guaranteed loan subsidy							
b. Administrative expenses							
c. Subsidy for modifications							
10. Unobligated balances not available:							
a. Apportioned for subsequent period							
b. Withheld pending rescission							
c. Deferred							
d. Unapportioned balance							
e. Other balances not available							
11. Total Resources		25,292	25,292				
Relation of Obligations to Outlays							
12. Obligations incurred, net		25,292	25,292				
13. Net unpaid obligations:							
a. Obligated balances, as of October 1							
b. Obligated balances, net transferred							
c. Obligated balances, end of period		2,429	2,429				
14. Outlays (net)		22,863	22,863				
Submitted:11/15/92..							
(Authorized Officer) (Date)							
* Amounts in thousands of dollars.							
** During the first year there will be no predecessor accounts.							

Guaranteed Loan Financing Account Credit Execution Final Report

Standard Form 1432LP Office of Management and Budget Circular No. A-34		REPORT ON EXECUTION* (FINAL) GUARANTEED LOANS FINANCING ACCOUNT				Page 1 of 2 Period ended: 09/30/92	
Agency: Department of Government		1992 Cohort for Each Program					
Account: XX-XXXX **		Total	Program A	Program B	Program C	Program D	Program E
Program Level							
1. Guaranteed loan levels		4,117,333	411,733	823,467	617,600	1,235,200	1,029,333
2. Federal share supportable by subsidy		3,088,000	308,800	617,600	463,200	926,400	772,000
Status							
3. Total new guaranteed loan commitments***		4,117,333	411,733	823,467	617,600	1,235,200	1,029,333
4. Outstanding, start of year		0	0	0	0	0	0
5. Disbursements by non-Federal lenders:							
a. New guaranteed loans		3,705,600	370,560	741,120	555,840	1,111,680	926,400
b. Guaranteed loans sold to the public with recourse							
6. Repayments and prepayments (-)							
7. Adjustments:							
a. Termination for defaults that result in loans receivable (-)		(5,000)	(500)	(1,000)	(750)	(1,500)	(1,250)
b. Termination for defaults that result in acquisition of property (-)							
c. Termination for defaults that result in claim payments (-)		(1,667)	(167)	(333)	(250)	(500)	(417)
d. Other adjustments, net (+ or -)							
8. Outstanding, end of period		3,698,933	369,893	739,787	554,840	1,109,680	924,733
9. Federal share of new commitments(75% of line 3)****		3,088,000	308,800	617,600	463,200	926,400	772,000
10. U.S. contingent liability, end of period (75% of line 8)****		2,774,200	277,420	554,840	416,130	832,260	693,550
Submitted:..... ...11/15/92... <div style="display: flex; justify-content: space-between; font-size: x-small;"> (Authorized Officer) (Date) </div> <p>* Amounts in thousands of dollars. ** This is a no-year account which does not expire. *** This amount must be equal to or less than the amount on line 1. **** This amount must be equal to or less than the amount on line 2.</p>							

Guaranteed Loan Financing Account Credit Execution Final Report—continued

Standard Form 1050L-F Office of Management and Budget Circular No. A-34		REPORT ON EXECUTION* (FINAL)		Page 2 of 2			
GUARANTEED LOANS FINANCING ACCOUNT		Period ended: 09/30/92					
Agency: Department of Government		1992 Cohort for Each Program					
Account: XX-XXXX		Total	Program A	Program B	Program C	Program D	Program E
Federal Resources							
1. Financing authority:							
a. Permanent indefinite authority to borrow							
2. Unobligated balance:							
a. Brought forward, October 1							
b. Net transfers (+ or -)							
3. Offsetting collections:							
a. Non-Federal sources:							
(1) Fees collected		138,960	13,896	27,792	20,844	41,638	34,740
(2) Collections of principal							
(3) Collections of interest							
(4) Proceeds from collateral							
(5) Earned or anticipated but not collected							
b. Federal sources:							
(1) Subsidy: current definite		21,863	2,186	4,373	3,279	6,559	5,466
(2) Subsidy: permanent indefinite							
(3) Interest from Treasury		3,167	317	633	475	850	792
(4) Accounts receivable							
(5) Payments from liquidating account							
(6) Subsidy: current indefinite							
4. Recovers of prior year obligations:							
a. Actual							
b. Anticipated for rest of year							
5. Portion not available pursuant to P.L. ____(-)							
6. Portion applied to debt reduction:							
a. Paid (-)							
b. Accounts payable (-)							
7. Total Resources		163,990	16,399	32,798	24,599	49,197	40,998
Status of Resources							
8. Obligations incurred:							
a. Default claims		5,000	500	1,000	750	1,500	1,250
b. Interest payments to Treasury			0	0	0	0	0
c. Capitalized costs, etc.*							
d. Payments to receipt accounts							
e. Interest supplements and other payments to lenders							
9. Unobligated balances available:							
a. Default claims							
b. Interest							
c. Capitalized costs, etc.*							
10. Unobligated balances not available:							
a. Apportioned to subsequent period							
b. Withheld pending rescission							
c. Deferred							
d. Unapportioned balance		158,990	15,899	31,798	23,849	47,697	39,748
e. Other balances not available							
11. Total Resources		163,990	16,399	32,798	24,599	49,197	40,998
Relation of Obligations to Disbursements							
12. Obligations incurred, net		(158,990)	(15,899)	(31,798)	(23,849)	(47,697)	(39,748)
13. Net unpaid obligations:							
a. Obligated balances, as of October 1		0	0	0	0	0	0
b. Obligated balance, net transferred							
b. Obligated balances, end of period		0	0	0	0	0	0
14. Disbursements (net)		(158,990)	(15,899)	(31,798)	(23,849)	(47,697)	(39,748)

* Amounts in thousands of dollars.
** Includes costs that are routinely deducted from the proceeds from sales.

OMB CIRCULAR
NO. A-34

Ex-41.21

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: MacRAE, JAMES B., JR., OMB
To: HEADS OF EXEC. DEPARTMENTS
Date Received: 11-06-91 Date Due: NONE
Subject & Date

ODD: NONE

Control #: X91110718869

10-25-91 MEMO ATTACHING A COPY OF THE "UNIFIED AGENDA OF
FEDERAL REGULATIONS" THAT WAS PUBLISHED IN THE "FEDERAL
REGISTER" ON OCTOBER 21, 1991. THIS DOCUMENT PROVIDES A
COMPREHENSIVE OVERVIEW OF PROJECTED RULEMAKING ACTIVITIES
FOR THE NEXT 12 MONTHS FROM ALL FEDERAL AGENCIES THAT
PUBLISH REGULATORY AGENDAS.

SEE EXEC. SEC. 91062511539 - CONTROL SHEET ATTACHED.

Referred To:	Date:	Referred To:	Date:
(1) OPD;SCHLESINGE	11-07-91	(5)	
(2)		(6)	
(3)		(7)	
(4)		(8)	
INTERIM BY:		DATE:	
Sig. For:	NONE	Date Released:	

W/IN:

PRTY:

1

OPR:

MAU

Remarks

ORIGINAL REPORT TO OPD.
INFO CC MEMO ONLY: OAG, DAG, OLC, JMD.
(1) FOR INFORMATION.

Other Remarks:

GJT 11-07-91
FILE: OFFICE OF MANAGEMENT AND BUDGET (OMB)
J911107 4474

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

25 OCT 91



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 25 1991

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS, ESTABLISHMENTS,
AND CERTAIN AGENCIES AND COMMISSIONS

FROM: James B. MacRae, Jr. *JBM*
Acting Administrator
and Deputy Administrator
Office of Information
and Regulatory Affairs

SUBJECT: Unified Agenda of Federal Regulations

EXECUTIVE SECRETARIAT

91 NOV -6 P4:11

RECEIVED
DEPARTMENT OF JUSTICE

Attached is a copy of the Unified Agenda of Federal Regulations that was published in the Federal Register on October 21, 1991. This document provides a comprehensive overview of projected rulemaking activities for the next 12 months from all Federal agencies that publish regulatory agendas. This edition contains descriptions of 4,863 rulemaking actions from 59 Federal departments and agencies.

The Agenda contains several indexes including a subject index to help readers locate entries from various agencies that may affect a particular area of interest. In addition, another index includes lists of entries that Federal agencies believe may have effects on small entities (as required by the Regulatory Flexibility Act), while a third lists entries that may have effects on local, State, or Federal levels of government (pursuant to Executive Order 12612 "Federalism"). These lists are arranged by type of effect, then by agency, and contain the title and sequence number of each entry. The sequence number also appears before the title of each entry in the Agenda. The indexes appear at the end of the Agenda.

I thank you and your staffs for your cooperation in producing this edition of the Agenda.

Attachment

cc:
Managing and Executive Directors of Certain Agencies and
Commissions
Regulatory Contacts
Regulatory Information Officers

ERRATA

The following correction appears in the Federal Register of Friday, October 25, 1991:

Federal Register / Vol. 56, No. 207 / Friday, October 25, 1991 / Proposed Rules

55245

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Regulations; Correction

AGENCY: Internal Revenue Service,
Treasury.

ACTION: Semiannual agenda of
regulations: correction.

SUMMARY: This document corrects the table of contents for the Internal Revenue Service semiannual agenda of regulations, which was published in the Federal Register on Monday, October 21, 1991. A heading and several entries in the table of contents were inadvertently omitted.

FOR FURTHER INFORMATION CONTACT:
Robert Boyer, (202) 377-8231 (not a toll-free number).

Dale D. Goods,

Federal Register Liaison Officer, Assistant
Chief Counsel (Corporate)

In proposed rule document 91-21802 beginning on page 53803 in the issue of Monday, October 21, 1991, make the following correction:

On page 53815, in the table of contents, the heading Internal Revenue Service—Completed Actions was omitted after sequence number 3343, and sequence numbers 3344–3364 were also omitted. The table of contents for the Internal Revenue Service—Completed Actions is reprinted below in its entirety.

INTERNAL REVENUE SERVICE—COMPLETED ACTIONS

Sequence number	Title	Regulation identifier number
3344	26 USC 0056(g) Adjusted Current Earnings	1545-AN24
3345	26 USC 0061 To Clarify That the Income Consequences of the Discharge of Indebtedness Are the Same for Both Recourse and Nonrecourse Indebtedness	1545-AO80
3346	26 USC 0062(c) Section 702 of the Family Support Act of 1988	1545-AP29
3347	26 USC 0148 Arbitrage Restrictions on Tax-Exempt Bonds	1545-AP49
3348	26 USC 0163 Prohibition on Foreign Targeting Obligations Backed by United States Government Securities	1545-AM19
3349	26 USC 0167 Normalization Requirements for Public Utility Property: Inconsistent Procedures and Adjustments	1545-AM60
3350	26 USC 0267(a)(3) Deductions of Amounts Owed to Related Foreign Persons Under Sections 267(a)(3) and 163(e)(3)	1545-AN84
3351	26 USC 0382 Computation of Section 382 Limitation	1545-AK87
3352	26 USC 0383 Special Limitations on Certain Credit and Loss Carryovers	1545-AK26
3353	26 USC 0401(k) Cash or Deferred Arrangements (Tax Reform Act of 1986)	1545-A179
3354	26 USC 0404 Income Tax—Employee Stock Ownership Plan Loan Payments	1545-AD77
3355	26 USC 0409 Income Tax—Requirements for Tax Credit Employee Stock Ownership Plans, Employee Plan Credit, and Defined Contribution Plan Voting Rights	1545-AD62
3356	26 USC 0414(q) Definition of Highly Compensated Employee	1545-AO50
3357	26 USC 0469 Limitations on Passive Activity Losses and Credits—Miscellaneous	1545-AO02
3358	26 USC 0469(f)(4) Passive Activity Loss and Credit Limitations—Technical Amendments	1545-AO81
3359	26 USC 0601 Amendment and Restatement of the Conference and Practice Requirements Contained in the Statement of Procedural Rules	1545-AP25
3360	26 USC 0613A Income Tax—Supplementary Rules on Limitations on Percentage Depletion for Oil & Gas	1545-AB73
3361	26 USC 0613A Transfers by Individuals to Corporation Under Section 613A(c)(10)	1545-AB74
3362	26 USC 0752 Partner's Share of Partnership Liabilities	1545-AH26
3363	26 USC 0846 Temporary Income Tax Regulations—Discounting of Unpaid Losses of Property and Casualty Insurance Companies	1545-A196
3364	26 USC 0861 California Franchise Tax and Section 1.861-8 Allocation	1545-AM08
3365	26 USC 0905 Suspension of Requirement to File a Receipt for Foreign Taxes Paid on a Return for Foreign Taxes Accrued	1545-AM43
3366	26 USC 0907 Amendment of Regulations Under Section 907 of the Internal Revenue Code of 1954 to Conform Them to Section 211 of the Tax Equity and Fiscal Responsibility Act of 1982	1545-AE34
3367	26 USC 0932(b) Regulations Under Section 932(b)	1545-AM89
3368	26 USC 1031 Regulations Relating to Inapplicability of Section 1031 to Exchanges of Partnership Interests and the Limitation on Deferred Exchanges	1545-AH43
3369	26 USC 1031 Additional Rules for Exchanges of Personal Property and for Exchanges of Multiple Properties	1545-AN38
3370	26 USC 1286 Income Tax—Treatment of Stripped Bonds and Stripped Coupon	1545-AH75
3371	26 USC 1448 Withholding Tax on Payments from Partnerships to Foreign Partners	1545-AL30
3372	26 USC 1502 Income Tax—Credit & Deductions etc., for Consolidated Returns	1545-AC48
3373	26 USC 3121 Amendment of the Employment Tax Regulations Under Code Section 3121 to Conform to Section 321 of the Social Security Amendments of 1983	1545-AF91
3374	26 USC 3121 Membership in Retirement System—State and Local Government Employees	1545-AP62
3375	26 USC 4081 Fuel Floor Stocks Tax	1545-AP22
3376	26 USC 4682 ODC Special Rule 4682	1545-AP83
3377	26 USC 6012(a) Return Filing Requirements for Insurance Companies	1545-AN23
3378	26 USC 6038A Information with Respect to Certain Foreign-Owned Corporations	1545-AO09
3379	26 USC 6103 Disclosure of Return Information to the Bureau of the Census	1545-AO81
3380	26 USC 6302 Acceleration of Deposit Requirements	1545-AO86
3381	26 USC 6326 Administrative Appeal of the Erroneous Filing of Notice of Tax Lien	1545-AN07
3382	26 USC 6659 Procedure & Administration—Addition to Tax in the Case of Valuation Overstatements and Understatements, and Increase in the Negligence Penalty	1545-AD39
3383	26 USC 6721 Uniform Penalties for Failures to Comply with Certain Information Reporting Requirements	1545-AO95
3384	26 USC 6723 Penalty for Failure to Include Correct Information on Information Returns and Payee Statements	1545-AJ29
3385	26 USC 7609 Procedure and Administration—Suspension of Statutes of Limitations in Absence of Third-Party Recordkeeper Response to Summons	1545-AK72
3386	26 USC 7805 Excise Tax Relating to Gain or Other Income Realized by Any Person on Receipt of Greenmail	1545-AN41
3387	26 USC 7805 Technical Amendments to Section 602.101(c)	1545-AO88
3388	26 USC 7805 Statement of Procedural Rules	1545-AP05
3389	26 USC 9037 Financing of Presidential Election Campaigns	1545-AP21
3390	26 USC 9100 Extension of Time for Making Certain Elections	1545-AO85

Unified Agenda of Federal Regulations

October 1991

Reprinted from Federal Register of Monday
October 21, 1991, Volume 56 No. 203

OFFICE OF MANAGEMENT
AND BUDGET
WASHINGTON, DC 20503

OFFICIAL BUSINESS

HON. RICHARD L. THORNBURGH
ATTORNEY GENERAL OF THE UNITED STATES
U.S. DEPARTMENT OF JUSTICE
ROOM 5111 MAIN JUSTICE
10TH & CONSTITUTION AVENUE NW.
WASHINGTON, DC 20530
UA-HDEX

SECTOR 1



Regulatory Information Service Center

Unified Agenda of Federal Regulations

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**OFFICE OF MANAGEMENT
AND BUDGET
WASHINGTON, DC 20503**

OFFICIAL BUSINESS

HON. RICHARD L. THORNBURGH
ATTORNEY GENERAL OF THE UNITED STATES
U.S. DEPARTMENT OF JUSTICE
ROOM 5111 MAIN JUSTICE
10TH & CONSTITUTION AVENUE NW.
WASHINGTON, DC 20530
UA-HDEX

SECTOR 1

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: MacRAE, JAMES B., JR., OMB
To: HEADS OF EXEC. DEPTS. AND AGENCIES
Date Received: 11-06-91 Date Due: NONE
Subject & Date

ODD: NONE

Control #: X91110718874

11-05-91 MEMO ATTACHING A COPY OF THE 1991 EDITION OF THE
"REGULATORY PROGRAM OF THE UNITED STATES GOVERNMENT."
PART I OF THE PROGRAM PROVIDES A DISCUSSION OF CURRENT
PROBLEMS AND ISSUES, AND PART II DESCRIBES SIGNIFICANT
REGULATORY ACTIONS PLANNED OR UNDER DEVELOPMENT AT FEDERAL
DEPARTMENTS AND AGENCIES DURING THE PROGRAM YEAR
(APRIL 1, 1991 - MARCH 31, 1992).

Referred To: Date:
(1) OPD;SCHLESINGE 11-07-91
(2)
(3)
(4)

Referred To: Date:
(5)
(6)
(7)
(8)

INTERIM BY:
Sig. For: NONE

DATE:
Date Released:

W/IN:

PRTY:

1

OPR:

MAU

Remarks

ORIGINAL REPORT TO OPD.
INFO CC MEMO ONLY: OAG, DAG, OLC, JMD.
(1) FOR INFORMATION.

Other Remarks:

GJT 11-07-91
FILE: OFFICE OF MANAGEMENT AND BUDGET (OMB)
J911107 4473

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

5
Nov
91



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 5 1991

RECEIVED
DEPARTMENT OF JUSTICE

'91 NOV -6 P4:03

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: James B. MacRae, Jr. *JRM*
Acting Administrator
and Deputy Administrator
for Information and Regulatory Affairs

SUBJECT: 1991 Regulatory Program

Attached, for your information, is a copy of the 1991 edition of the Regulatory Program of the United States Government.

The Regulatory Program includes President Bush's Regulatory Message to the Congress. Part I of the Program provides a discussion of current problems and issues. Part II describes significant regulatory actions planned or under development at Federal departments and agencies during the Program Year (April 1, 1991 - March 31, 1992).

Publication of the annual Regulatory Program is the result of the joint efforts of the agencies and the Office of Management and Budget, pursuant to Executive Order No. 12498, to establish the Administration's regulatory priorities and plans for the Program Year. It is an important component of our program to ensure that regulations that are issued are fully justified and cost effective.

In this year's Regulatory Program, we asked the agencies to begin providing information on the estimated benefits and costs of their significant regulatory actions. These data will be found in a new section in agency entries. Although in many cases it was not possible to develop these data for this Regulatory Program, many agencies made extensive efforts to provide such information or to begin the process of generating it.

I hope you will find the Program informative and useful.

Attachment

cc:
Regulatory Contacts

FACT SHEET

REGULATORY PROGRAM OF THE UNITED STATES GOVERNMENT

(April 1, 1991 - March 31, 1992)

The 1991-92 Regulatory Program

- o The 1991 Regulatory Program contains overview statements from 23 departments and agencies and descriptions of 514 Significant Regulatory Actions (SRAs) that 21 of them are planning or conducting. In addition, the Program includes two Governmentwide common rules, bringing the total to 516.

<u>Agency</u>	<u>Number of SRAs</u>
Department of Agriculture-----	54
Department of Commerce-----	19
Department of Defense-----	3
Department of Education-----	4
Department of Energy-----	6
Department of Health and Human Services-----	75
Department of Housing and Urban Development---	25
Department of the Interior-----	43
Department of Justice-----	10
Department of Labor-----	84
Department of State-----	1
Department of Transportation-----	48
Department of the Treasury-----	16
Department of Veterans Affairs-----	2
Environmental Protection Agency-----	98
Equal Employment Opportunity Commission-----	3
Federal Emergency Management Agency-----	4
General Services Administration-----	1
Office of Personnel Management-----	7
Pension Benefit Guaranty Corporation-----	9
Small Business Administration-----	1
Governmentwide Common Rules-----	2

- o Two agencies -- the National Aeronautics and Space Administration and National Archives and Records Administration -- do not have any SRAs in this year's Program. They do, however, provide overviews of their regulatory plans for the 1991-92 Program year.
- o Four agencies together account for 60 percent of the agency SRAs:

EPA	97 actions	19 percent
DOL	84 actions	16 percent
HHS	75 actions	15 percent
USDA	54 actions	10 percent

- o Of the 516 SRAs submitted, 150 (29 percent) are subject to a legal deadline, either statutory or judicial. Of these 150 SRAs, 80 (53 percent) have deadlines that will occur during this Program year (April 1, 1991-March 31, 1992). Fifty-five SRAs (37 percent) have legal deadlines that occurred before the start of this Program year. Thirty-six SRAs (24 percent) have deadlines occurring after this Program year. Some of the entries have more than one legal deadline. The agencies that have legal deadlines for their SRAs are:

<u>Agency</u>	<u>SRAs With Legal Deadlines</u>
Environmental Protection Agency-----	56
Department of Health and Human Services-----	20
Department of Transportation-----	16
Department of Agriculture-----	15
Department of Labor-----	13
Department of Housing and Urban Development--	10
Department of Justice-----	6
Department of the Interior-----	4
Department of Commerce-----	3
Department of Energy-----	2
Department of State-----	1
Department of the Treasury-----	1
Equal Employment Opportunity Commission-----	1
Office of Personnel Management-----	1
Governmentwide Common Rules-----	1

- o The SRAs included in the Program are in various stages of development. The table below categorizes the status of the SRAs:

<u>Type of Activity</u>	<u>Number of SRAs</u>	<u>Percent of SRAs</u>
Prerule Stage	43	8
Proposed Rule Stage	242	47
Final Rule Stage	231	45

- o An Interagency Coordination section appears in some agencies' portions of the Program and contains those SRAs that require careful coordination between agencies because of their high potential for duplication, overlap, or inconsistency with other agency rulemakings. There are 38 SRAs in the Inter-agency Coordination sections. The agencies that reported SRAs subject to interagency coordination are:

<u>Agency</u>	<u>Interagency Coordination SRAs</u>
Environmental Protection Agency-----	11
Department of Health and Human Services-----	10
Office of Personnel Management-----	6

Equal Employment Opportunity Commission-----	3
Department of the Interior-----	2
Department of Agriculture-----	1
Department of Commerce-----	1
Department of Defense-----	1
Department of Housing and Urban Development-----	1
Department of Labor-----	1
Pension Benefit Guaranty Corporation-----	1

Executive Order No. 12291 Annual Report

- o OMB reviewed 2,139 agency rules under E.O. 12291 in 1990. Eight agencies accounted for more than three-quarters of the rules reviewed:

<u>Agency</u>	<u>Number of Rules</u>	<u>Percent of Rules</u>
Department of Health and Human Services--	354	16.6
Department of Agriculture-----	333	15.6
Department of Commerce-----	244	11.4
Department of Transportation-----	242	11.3
Environmental Protection Agency-----	173	8.1
Department of the Interior-----	102	4.8
Department of Veterans Affairs-----	87	4.1
Department of Justice-----	78	3.7

- o 40.4 percent of the rules OMB reviewed were at the proposed rule stage and 59.6 percent were at the final rule stage.
- o Major rules accounted for 3.8 percent of the rules reviewed.
- o Of the 2,139 rules reviewed during 1990, OMB found that:
 - 71.8 percent were consistent with the principles of the order as submitted;
 - 19.3 percent were consistent with the order after the agency adopted changes during the review period;
 - 1.0 percent were inconsistent with the order and were returned to the agency for reconsideration;
 - 2.5 percent were withdrawn by agencies;
 - 2.6 percent were emergency rules or rules subject to statutory or judicial deadlines; and
 - 2.7 percent were suspended.
- o In 1990, OMB reviewed rules in an average of 28 days, as compared with the 1989 average of 29 days and the 1988 average of 32 days.

JUSTICE DEPARTMENT
ATTN: ATTORNEY GENERAL
10TH & CONSTITUTION AVENUE, NW
ROOM 5111
WASHINGTON, DC 20530

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: BURMAN, ALLAN & STEINBERG, HAROLD, CO-CHAIRMEN, CATF, OMB
To: DEPUTY HEADS OF EXEC. DEPTS. & AGENCIES ODD: 01-06-92
Date Received: 11-14-91 Date Due: 01-06-92 Control #: X91111519214
Subject & Date

11-13-91 MEMO (REC'D FROM ODAG) ADVISING THAT IN JULY 1991,
THE SUBCOMMITTEE ON OVERSIGHT OF THE HOUSE COMMITTEE ON
ENERGY AND COMMERCE RECOMMENDED THAT OMB ACT TO IMPROVE
FEDERAL AUDIT COVERAGE. OMB RESPONDED BY ESTABLISHING AN
INTERAGENCY TASK FORCE ON CONTRACT AUDITING. ATTACHES A
QUESTIONNAIRE TO BE COMPLETED AND RETURNED BY
JANUARY 6, 1992. UPON RECEIPT OF THE QUESTIONNAIRE, THE
SUBCOMMITTEES OF THE TASK FORCE WILL ANALYZE THE **

Referred To:	Date:	Referred To:	Date:	W/IN:
(1) JMD;FLICKINGER	11-15-91	(5)		
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: JMD		Date Released: 12-24-91		EHZ

Remarks

** INFORMATION AND PREPARE RECOMMENDATIONS TO OMB'S
DEPUTY DIRECTOR FOR MANAGEMENT.
INFO CC: OAG, DAG, OIG.
(1) FOR APPROPRIATE HANDLING. ADVISE EXEC. SEC. OF
ACTION TAKEN.
12-24-91 JMD REPLIED BY LETTER DATED 12-20-91. (TJ)

Other Remarks:

TJS 11-15-91
FILE: OFFICE OF MANAGEMENT AND BUDGET (OMB)
J911115 4561

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

13 Nov 91



DEC 20 1991

Washington, D.C. 20530

Mr. Ron Longo
Office of Management and Budget
Office of Federal Financial Management
Washington, D.C. 20503

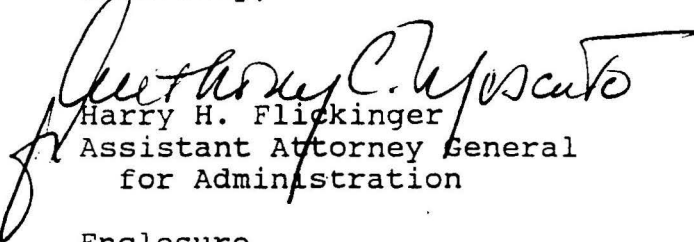
Dear Mr. Longo:

This letter and enclosed questionnaire are being forwarded to you in response to the recently received memorandum from the co-chairmen of the Contract Audit Task Force concerning the survey of agency contracting activities.

As requested, our response has been coordinated by the Department's Senior Procurement Executive, as well as the Inspector General, and represents both procurement and audit perspectives.

Mr. Larry Silvis, of the Office of the Procurement Executive, has been designated as the Department's contact person for this project. Mr. Silvis will be available to discuss our response with you and may be reached at (202) 514-6870.

Sincerely,


Harry H. Flickinger
Assistant Attorney General
for Administration

Enclosure

Survey of Agency Contracting Activities

Present Practices

1. What criteria, including dollar thresholds, are used to request audit services for pre-award, cost incurred, close-out and other contract audits of negotiated contracts?

Response: Pre-award audit services are typically requested within the Department for proposed negotiated contract awards or modifications in excess of \$500,000, for which in-house information is determined to be inadequate to determine the reasonableness of the proposed cost or price. Post-award audit services are requested primarily for the establishment of final indirect cost rates.

2. What is the agency criteria for determining from whom contract audit services are requested? Are costs considered in making the selection?

Response: It is the agency's policy that all requests for audit assistance, regardless of cost, be directed to the Assistant Inspector General (IG) for Audits. If the IG's office is unable to provide the requested audit services, audit services may be requested from DCAA, other Federal agencies, or private sector sources.

3. What offices are responsible for requesting, performing and tracking pre-award, cost incurred, close out and other contract audits? Please describe the basic procedures used to accomplish this. Also, what offices are routinely provided copies of audit reports?

Response: Each contracting office within the Department is responsible for requesting and tracking contract audit services in accordance with their internal bureau procedures. The procedures vary from bureau to bureau, however, the submission and tracking of the requests are generally performed by the cognizant contract specialist. There is no office that is routinely provided copies of audit reports, but a copy may be provided to a program, finance, internal audit or general counsel's office as necessary.

4. What information is needed to track the status of prime contracts and subcontracts for which audits are required or desired? Is the information readily available in the agency? If the information is not readily available, what are your suggestions for obtaining the information?

Response: Information needed to track status of prime contract and subcontracts for which audits are required or desired include: Contractor's name and address, date of audit request, name and address of audit office, audit report due date, and

dollar value of the prime and subcontracts. This information is readily available within the Department.

Contract Audit Universe

5. Provide the summary information requested in Attachment A for your agency's current (as of 10/01/91) contract audit workload for all negotiated contracts over \$500,000.

Response: Attachment A has been completed as requested.

6. The information called for in Attachment A is for contracts over \$500,000. For those contracts under \$500,000 estimate the backlog showing number of contracts and total dollar value.

Response: As of October 1, 1991, there is no audit backlog for contracts under the \$500,000 threshold.

7. Estimate the information called for in Attachment B for the subcontracts requiring audit that are related to the prime contracts reported on attachment A. Provide the basis for your estimates.

Response: There are no subcontracts requiring audit that are related to the prime contracts reported on Attachment A.

8. What are your plans and timetable for reducing the prime and subcontract audit backlog?

Response: We will continue to contact the audit agency on a routine basis until the reports are received.

9. How many contracts subject to audit are expected to be awarded in fiscal years 1992 and 1993?

Response: The number of contracts, subject to audit in fiscal years 1992 and 1993, are anticipated to be 43 and 37, respectively.

10. Provide the summary information requested in Attachment C for the contract audits conducted in fiscal years 1990 and 1991 and the estimated prime and subcontract audit backlog at the end of fiscal years 1992 and 1993. Do not include in the table the estimated number of desk audits to be performed by the procurement office. That information is requested in a separate question at the bottom of the attachment.

Response: Attachment C has been completed as requested.

Page 3 - Survey of Agency Contracting Activities

11. Provide the summary information requested in Attachment D for the staff years and/or dollars expended and estimated to be expended on contract audit services by your agency in fiscal years 1990 through 1993.

Response: Attachment D has been completed as requested.

12. For those contracts over \$500,000 that were closed out in FY 1991, how many were closed out with a desk audit and how many were closed out by a field audit? Briefly explain your policy and procedures for using desk audits to closeout contracts.

Response: Fifty-five contracts in excess of \$500,000 were closed out in FY 1991. All of these contracts were closed out with a desk audit. We do not have a formal policy for desk audits, however, when sufficient data is available within-house, contracts are closed out without requesting field audit reports.

Cognizant Audit Agency

13. List the contractors (name, location and D-U-N-S Contractor Establishment Code) for which your agency is the cognizant agency for audit? For purposes of this study, the cognizant agency is the agency that is responsible for the performance of the audits for a particular contractor or its segment.

Response: The contractors for which this agency is the cognizant agency for audit are:

- Aspen System Corporation
1600 Research Blvd.
Rockville, MD 20850
D-U-N-S Contractor Establishment Code: 044306348
- Community Research Associates, Inc.
115 North Neil Street
Suite 302
Champaign, IL 61820
D-U-N-S Contractor Establishment Code: 122313430
- Slade Computer Consulting
7406 Scarborough Street
Springfield, VA 22153
D-U-N-S Contractor Establishment Code: 153924154
- Library Information Specialist, Inc.
1780 - 30th Street
Boulder, CO 80301
D-U-N-S Contractor Establishment Code: 116268681

Page 4 - Survey of Agency Contracting Activities

14. Are there any contractors, for which your agency is the cognizant audit agency, that have contracts which were audited by another Federal agency? In these instances identify the contractor and auditing agency.

Response: There are no contractors, for which the Department of Justice is cognizant audit agency that have contracts which were audited by another Federal agency.

15. Are there any contractors for which your agency is cognizant for audit services, but does not establish the indirect cost rate? Identify the contractors and the agencies that negotiated the rate. Indicate the reason why your agency does not establish these rates.

Response: There are no contractors for which the Department of Justice is cognizant for audit service, but does not establish the indirect cost rate.

16. Does your agency currently have formal audit cross-servicing arrangements with other agencies (OFPP Policy Letter 78-4, Field Contract Support Cross-Servicing Program)? Identify those agencies.

Response: The Department of Justice does not currently have a formal audit cross-servicing arrangement with other agencies.

Audit Timeliness and Usefulness

17. How much time does your agency desire from date of audit request to receipt of audit report for the various types of contract audits? What is your actual experience?

Response:

	<u>Desired Time</u>	<u>Approximate Actual Time</u>
Pre-Award	30 days	60 days
Close-out	90 days	180 days
Cost Incurred	60 days	150 days
Other	45 days	90 days

18. How many FY 1991 audit requests were unable to be performed, and what were the most common reasons for the denial?

Response: No FY 1991 requests were unable to be performed.

19. Do the audit reports contain sufficient information to provide the necessary assurances that the contractor is exercising proper stewardship over Federal contract funds? If not, briefly explain why. In any event, indicate what additional information would be useful.

Page 5 - Survey of Agency Contracting Activities

Response: The audit reports received have contained sufficient information to provide the necessary assurances that the contractor is exercising proper stewardship over Federal contract funds. Additional information that would be useful includes: forecast of significant events planned by the contractor that will impact the firm's direct and indirect costs; and economic trend indicators tailored for that industry.

20. Do contract audit reports provide sufficient information to enable procurement/program officials to analyze the reports for undesirable trends and/or conditions?

Response: Contract audit reports, for the most part, provide sufficient information to enable procurement/program officials to analyze the reports for desirable trends and/or conditions, and take appropriate action.

21. Do procurement/program officials analyze contract audit reports, identify undesirable trends and/or conditions, and take appropriate action?

Response: As applicable, the procurement/program officials analyze contract audit reports, identify undesirable trends and/or conditions, and take appropriate action.

Contract Audit Services

22. Is your agency satisfied with the contract audit services provided by the IG, DCAA, Independent Public Accountants or other organizations? If not, why not? Rank these audit providers from 1-5 (five being the highest) with an explanation. Please consider the accuracy, supportability, tone, and scope of the audits.

Response: The Department has received services from the IG, DCAA, as well as Independent Public Accountants and has been satisfied with the audit services provided. DCAA has been given the highest ranking of 4, followed by dual ratings of 3 for the IG and Independent Public Accountants. The majority of the audit services received have been provided by DCAA and while the supportability and accuracy of the reports have been good, DCAA is often slow in providing reports.

23. If all contract audits were conducted by a single audit agency, what steps could be taken to better manage the contract and audit workload which could allow more responsive audit services.

Response: We would recommend the establishment of a data base of all prior audit reports, to the extent feasible, and make this data available to all procurement offices via computer links.

24. What are the benefits and disadvantages of having Independent Public Accountants provide contract audit services?

Response: The benefits of having Independent Public Accountants (IPA) provide contract audit services include the following: IPAs have a greater amount of resources available to conduct the audits; audits would be completed in a more timely manner; IPAs have more flexibility in scheduling workload, in that the work force can be readily expanded or reduced as the workload dictates; and audit services would be provided without individuals who are performing these services being counted as FTEs. Some disadvantages include: the services would be costly to acquire; IPAs may lack the knowledge and experience in the area of Federal contract audit; contractors may not be receptive to the idea of other contractors reviewing their books and financial records; and there would be some loss of Government control and oversight.

Implementation of Task Force Recommendations

25. What are your thoughts on the relative validity and feasibility of the following alternatives?

- (a) A single contract audit agency that provides contract audit services to the Federal civilian agencies.
- (b) Reliance on DCAA as the single contract audit agency providing contract audit services to the Federal Government.
- (c) Modification of existing practices.

Response: We believe that DCAA should be relied upon as the single contract audit agency for the Federal Government. This alternative, however, will be feasible only if DCAA receives a significant enhancement of well-qualified personnel and all agencies' requests are considered and processed on an equal basis. The Department of Defense must not take precedence over Federal civilian agencies on non-urgent requests.

Wrap-Up

26. Please provide any comments you may wish to add, particularly those relating to the adequacy and timeliness of audit services, the relative cost-effectiveness of various types of audits, the impact of the new "M-Account" legislation on closeout activity, the need to contract-out for more audits, the need to keep closer tabs on DCAA's and other audit groups' responsiveness to requests for audit etc.

Response: The need to have available to all Federal agencies, a contract audit agency that will provide accurate, complete and timely audit services becomes more and more acute, as dollars within the Federal budget continue to shrink and various legislation, such as the new "M-Account" legislation, continues to adversely impact the overall acquisition process. Improved data gathering and analysis will enhance the government's ability to continue to operate in a manner consistent with these new challenges. The active maintenance of the cognizant audit agency listing would facilitate our data gathering and analysis efforts. Regardless of the proposed solutions, it must be recognized that the solutions must be accompanied by an adequate and corresponding budget that will allow for proper staffing and operation of the agency.

We want to have a good idea of the civilian agency's backlog of contract audit workload. The following form is provided so that we can collect this information. The information presented in the chart should only include audit requests to be performed by sources other than the procurement activity. For instance it should not include closeout desk audits performed by the procurement office. That information is requested in a separate question at the bottom of the page.

CONTRACT AUDIT WORKLOAD

Agency Department of Justice

Outstanding Audit Requests as of October 1, 1991 (1)									Identity of Proposed Auditor					
TYPE AUDIT	(Part 1)								(Part 2)					
	Year of Request								Agency IG		DCAA		Other (4)	
	FY 1991		FY 1989 FY 1990		FY 1987 FY 1988		Prior to FY 1987		Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value
Incurred Cost (2)	1	5.5M			1	2M			1	5.5M	1	2M		
Closeout														
Other - Pre-Award	2	5.9M	2	11.3M							4	17.2M		
Total (3)	3	11.4M	2	11.3M	1	2M			1	5.5M	5	17.9M		
Estimated Preaward Audit Requests FY 1992											5	12.5		

Notes: (1) The Backlog of Audits requested and estimated number of Preaward Audits should include prime contractors only.

(2) Incurred cost audits are performed on a contractor fiscal year basis. Please count 1 audit for each year to be audited.

(3) The totals of Parts 1 and 2 should equal.

(4) Provide a separate footnote identifying audits requested from Independent Public Accountants versus audits requested from others providers of audit services, excluding DCAA

In addition to the backlog of audits that have already been requested, some agencies are likely to have audit needs, for which the audit requests have not been sent to the audit activity. Excluding preaward audits, approximately how many audits do you need that have not been requested from the audit activity?

Incurred Costs None Closeout ~ Other _____

In addition to the backlog of audit requests/needs, estimate the backlog (total dollar value and number of contracts) of closeout desk audits to be performed by the procurement office and identify the range of years covered by that backlog.

Attachment B

ESTIMATED OUTSTANDING SUBCONTRACT AUDITS REQUIRED AS OF OCTOBER 1, 1991

Agency Department of Justice

TYPE OF AUDIT	Estimated Requirements		Identity of Auditor					
	Number of Contracts	Total Contract Value	Agency IG		DCAA		Other (1)	
			Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value
Incurring Cost								
Close Out								
Other								
Total	None	←					→	None

Note: (1) Provide a breakdown of audits expected to be conducted by Independent Public Accountants, the procurement office and other providers of audit services

None

CONTRACT AUDIT ACTIVITY AND ESTIMATED PRIME AND SUBCONTRACT AUDIT BACKLOG

Agency Department of Justice

	ACTUAL AND ESTIMATED CONTRACT AUDIT ACTIVITY			
	Prime Contracts		Subcontracts	
	Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value
FY 1990				
Incurred cost				
Closeout				
Other				
Total				
FY 1991				
Incurred cost	5	\$43.8M		
Closeout				
Other	5	7.0M		
Total	10	\$50.8M		
FY 1992				
Incurred cost	5	\$13.5M		
Closeout	2	\$ 1M		
Other	4	\$15.3M		
Total	11	\$29.8M		
FY 1993				
Incurred cost	4	\$10M		
Closeout	4	\$ 2M		
Other				
Total	8	\$12M		

The information presented above should reflect only the audits performed and to be performed by audit organizations. In addition to the information presented above, provide the total dollar value and number of closeout desk audits performed by the procurement office in fiscal years 1990 and 1991. Also, estimate the projected backlog (total dollar value and number of contracts) of closeout desk audits to be performed by the procurement office at the end of fiscal years 1992 and 1993.

STAFF YEARS AND/OR DOLLARS EXPENDED FOR CONTRACT AUDIT SERVICES

Agency Department of Justice

	ORGANIZATION PROVIDING AUDIT SERVICES									
	Procurement Office		Agency IG		DCAA		Independent Public Accountants		Other	
	staff years	Dollars	Staff years	Dollars	Staff years	Dollars	Staff years	Dollars	Staff years	Dollars
FY 1990										
Pre-award					200 hrs	10,000				
Incurred cost	60 hrs.	2,100								
Close out	60 hrs.	2,100								
Other										
Total	120 hrs	4,200			200 hrs	10,000				
FY 1991										
Pre-award					200 hrs	10,000				
Incurred cost	60 hrs.	2,100			128 hrs	6,300				
Close out	60 hrs.	2,100								
Other					490 hrs	24,500				
Total	120 hrs.	4,200			818 hrs	40,800				
FY 1992 Estimate										
Pre-award					400 hrs	20,000				
Incurred cost	60 hrs.	2,200			220 hrs	11,000				
Close out	60 hrs.	2,200	50 hrs	2,500						
Other					40 hrs	2,000				
Total	120 hrs.	4,400			660 hrs	33,000				
FY 1993 Estimate										
Pre-award					400 hrs	20,000				
Incurred cost	60 hrs.	2,200			180 hrs	9,000				
Close out	60 hrs.	2,200	240 hrs	12,000						
Other										
Total	120 hrs.	4,400	240 hrs	12,000	580 hrs	29,000				



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503
November 13, 1991

RECEIVED
DEPARTMENT OF JUSTICE

'91 NOV 14 P5:11

MEMORANDUM FOR DEPUTY HEADS OF SELECTED EXECUTIVE DEPARTMENTS
AND AGENCIES

FROM: Allan Burman, Co-Chairman
Contract Audit Task Force
Harold Steinberg, Co-Chairman
Contract Audit Task Force
SUBJECT: Survey of Agency Contracting Activity

In July 1991, the Subcommittee on Oversight of the House Committee on Energy and Commerce, recommended that the Office of Management and Budget (OMB) act to improve federal contract audit coverage by: (1) clarifying audit responsibility for contractors working for civilian agencies; (2) approving sufficient resources to ensure timely contract auditing; and (3) studying the mechanisms to improve contract auditing. OMB responded to the recommendations by establishing an interagency task force on contract auditing. The task force's overall goal is to identify ways to improve contract audit activities.

In order to accomplish our goal, contract and audit information needs to be obtained and analyzed. The questionnaire attached to this memorandum has been developed to obtain the needed information. We request that the Senior Procurement Executive and Inspector General collaborate in the preparation of a single agency response. Such coordination will ensure that full consideration is given to both procurement and audit perspectives.

We are asking that the completed questionnaire, including the name of a contact person at your agency who would be available to discuss your material, be provided to Ron Longo of OMB's Office of Federal Financial Management by January 6, 1992. Upon receipt of the questionnaire, subcommittees of the task force will analyze the information and prepare recommendations to OMB's Deputy Director for Management. Staff questions should be directed to Ron Longo at (202) 395-3993.

Attachment

cc: Inspector General
Senior Procurement Executive

SURVEY OF AGENCY CONTRACTING ACTIVITIES

NOTE

Included in the scope of this survey are negotiated contracts with for-profit organizations. Colleges, universities, non-profit organizations, and State and local governments are excluded.

PRESENT PRACTICES

- (1) What criteria, including dollar thresholds, are used to request audit services for pre-award, cost incurred, close-out and other contract audits of negotiated contracts?
- (2) What is the agency criteria for determining from whom contract audit services are requested? Are costs considered in making the selection?
- (3) What offices are responsible for requesting, performing and tracking pre-award, cost incurred, close out and other contract audits? Please describe the basic procedures used to accomplish this. Also, what offices are routinely provided copies of audit reports?
- (4) What information is needed to track the status of prime contracts and subcontracts for which audits are required or desired? Is the information readily available in the agency? If the information is not readily available, what are your suggestions for obtaining the information?

CONTRACT AUDIT UNIVERSE

- (5) Provide the summary information requested in Attachment A for your agency's current (as of 10/01/91) contract audit workload for all negotiated contracts over \$500,000.
- (6) The information called for in Attachment A is for contracts over \$500,000. For those contracts under \$500,000 estimate the backlog showing number of contracts and total dollar value.
- (7) Estimate the information called for in Attachment B for the subcontracts requiring audit that are related to the prime contracts reported on attachment A. Provide the basis for your estimates.
- (8) What are your plans and timetable for reducing the prime and subcontract audit backlog?

Page 2 - Survey of Agency Contracting Activities

- (9) How many contracts subject to audit are expected to be awarded in fiscal years 1992 and 1993?
- (10) Provide the summary information requested in Attachment C for the contract audits conducted in fiscal years 1990 and 1991 and the estimated prime and subcontract audit backlog at the end of fiscal years 1992 and 1993. Do not include in the table the estimated number of desk audits to be performed by the procurement office. That information is requested in a separate question at the bottom of the attachment.
- (11) Provide the summary information requested in Attachment D for the staff years and/or dollars expended and estimated to be expended on contract audit services by your agency in fiscal years 1990 through 1993.
- (12) For those contracts over \$500,000 that were closed out in FY 1991, how many were closed out with a desk audit and how many were closed out by a field audit? Briefly explain your policy and procedures for using desk audits to closeout contracts.

COGNIZANT AUDIT AGENCY

- (13) List the contractors (name, location and D-U-N-S Contractor Establishment Code) for which your agency is the cognizant agency for audit? For purposes of this study, the cognizant agency is the agency that is responsible for the performance of the audits for a particular contractor or its segment.
- (14) Are there any contractors, for which your agency is the cognizant audit agency, that have contracts which were audited by another Federal agency? In these instances identify the contractor and auditing agency.
- (15) Are there any contractors for which your agency is cognizant for audit services, but does not establish the indirect cost rate? Identify the contractors and the agencies that negotiated the rate. Indicate the reason why your agency does not establish these rates.
- (16) Does your agency currently have formal audit cross-servicing arrangements with other agencies (OFPP Policy Letter 78-4, Field Contract Support Cross-Servicing Program)? Identify those agencies.

Page 3 - Survey of Agency Contracting Activities

AUDIT TIMELINESS AND USEFULNESS

- (17) How much time does your agency desire from date of audit request to receipt of audit report for the various types of contract audits? What is your actual experience?

Desired Time Approximate Actual Time

Pre-Award
Close-out
Cost Incurred
Other

- (18) How many FY 1991 audit requests were unable to be performed, and what were the most common reasons for the denial?
- (19) Do the audit reports contain sufficient information to provide the necessary assurances that the contractor is exercising proper stewardship over Federal contract funds? If not, briefly explain why. In any event, indicate what additional information would be useful.
- (20) Do contract audit reports provide sufficient information to enable procurement/program officials to analyze the reports for undesirable trends and or conditions?
- (21) Do procurement/program officials analyze contract audit reports, identify undesirable trends and/ or conditions, and take appropriate action?

CONTRACT AUDIT SERVICES

- (22) Is your agency satisfied with the contract audit services provided by the IG, DCAA, Independent Public Accountants or other organizations? If not, why not? Rank these audit providers from 1-5 (five being the highest) with an explanation. Please consider the accuracy, supportability, tone, and scope of the audits.
- (23) If all contract audits were conducted by a single audit agency, what steps could be taken to better manage the contract and audit workload which could allow more responsive audit services.
- (24) What are the benefits and disadvantages of having Independent Public Accountants provide contract audit services?

IMPLEMENTATION OF TASK FORCE RECOMMENDATIONS

- (25) What are your thoughts on the relative validity and feasibility of the following alternatives?
- (a) A single contract audit agency that provides contract audit services to the Federal civilian agencies.
 - (b) Reliance on DCAA as the single contract audit agency providing contract audit services to the Federal Government.
 - (c) Modification of existing practices.

WRAP-UP

- (26) Please provide any comments you may wish to add, particularly those relating to the adequacy and timeliness of audit services, the relative cost-effectiveness of various types of audits, the impact of the new "M-Account" legislation on closeout activity, the need to contract-out for more audits, the need to keep closer tabs on DCAA's and other audit groups' responsiveness to requests for audit etc.

We want to have a good idea of the civilian agency's backlog of contract audit workload. The following form is provided so that we can collect this information. The information presented in the chart should only include audit requests to be performed by sources other than the procurement activity. For instance it should not include closeout desk audits performed by the procurement office. That information is requested in a separate question at the bottom of the page.

CONTRACT AUDIT WORKLOAD

Agency _____

Outstanding Audit Requests as of October 1, 1991 (1)									Identity of Proposed Auditor					
TYPE AUDIT	(Part 1) Year of Request								(Part 2)					
	FY 1991		FY 1989 FY 1990		FY 1987 FY 1988		Prior to FY 1987		Agency IG		DCAA		Other (4)	
	Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value
	Incurring Cost (2)													
Closeout														
Other														
Total (3)														
Estimated Preaward Audit Requests FY 1992														

Notes: (1) The Backlog of Audits requested and estimated number of Preaward Audits should include prime contractors only.

(2) Incurred cost audits are performed on a contractor fiscal year basis. Please count 1 audit for each year to be audited.

(3) The totals of Parts 1 and 2 should equal.

(4) Provide a separate footnote identifying audits requested from Independent Public Accountants versus audits requested from others providers of audit services, excluding DCAA

In addition to the backlog of audits that have already been requested, some agencies are likely to have audit needs, for which the audit requests have not been sent to the audit activity. Excluding preaward audits, approximately how many audits do you need that have not been requested from the audit activity?

Incurred Costs _____ Closeout _____ Other _____

In addition to the backlog of audit requests/needs, estimate the backlog (total dollar value and number of contracts) of closeout desk audits to be performed by the procurement office and identify the range of years covered by that backlog.

ESTIMATED OUTSTANDING SUBCONTRACT AUDITS REQUIRED AS OF OCTOBER 1, 1991

Agency _____

TYPE OF AUDIT	Estimated Requirements		Identity of Auditor					
	Number of Contracts	Total Contract Value	Agency IG		DCAA		Other (1)	
			Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value
Incurring Cost								
Close Out								
Other								
Total								

Note: (1) Provide a breakdown of audits expected to be conducted by Independent Public Accountants, the procurement office and other providers of audit services

CONTRACT AUDIT ACTIVITY AND ESTIMATED PRIME AND SUBCONTRACT AUDIT BACKLOG

Agency _____

	ACTUAL AND ESTIMATED CONTRACT AUDIT ACTIVITY			
	Prime Contracts		Subcontracts	
	Number of Contracts	Total Contract Value	Number of Contracts	Total Contract Value
FY 1990				
Incurred cost				
Closeout				
Other				
Total				
FY 1991				
Incurred cost				
Closeout				
Other				
Total				
FY 1992				
Incurred cost				
Closeout				
Other				
Total				
FY 1993				
Incurred cost				
Closeout				
Other				
Total				

The information presented above should reflect only the audits performed and to be performed by audit organizations. In addition to the information presented above, provide the total dollar value and number of closeout desk audits performed by the procurement office in fiscal years 1990 and 1991. Also, estimate the projected backlog (total dollar value and number of contracts) of closeout desk audits to be performed by the procurement office at the end of fiscal years 1992 and 1993.

STAFF YEARS AND/OR DOLLARS EXPENDED FOR CONTRACT AUDIT SERVICES

Agency _____

	ORGANIZATION PROVIDING AUDIT SERVICES									
	Procurement Office		Agency IG		DCAA		Independent Public Accountants		Other	
	staff years	Dollars	Staff years	Dollars	Staff years	Dollars	Staff years	Dollars	Staff years	Dollars
FY 1990										
Pre-award										
Incurred cost										
Close out										
Other										
Total										
FY 1991										
Pre-award										
Incurred cost										
Close out										
Other										
Total										
FY 1992 Estimate										
Pre-award										
Incurred cost										
Close out										
Other										
Total										
FY 1993 Estimate										
Pre-award										
Incurred cost										
Close out										
Other										
Total										

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: BURMAN, ALLAN V., ADMINISTRATOR, OMB

To: HEADS OF DEPTS. AND AGENCIES (AG.)

ODD: NONE

Date Received: 12-17-91 Date Due: NONE

Control #: X91121820767

Subject & Date

12-09-91 MEMO REGARDING THE EXPIRATION OF RESTRICTIONS ON
THE PROCUREMENT OF PRODUCTS OR SERVICES FROM TOSHIBA
MACHINE COMPANY, TOSHIBA CORPORATION, KONGSBERG TRADING
COMPANY AND KONGSBERG VAAPENFABRIKK. GUIDELINES FOR
IMPLEMENTING THE RESTRICTIONS WERE PROVIDED IN A MEMO HE
ISSUED ON JANUARY 13, 1989. THE PROCUREMENT RESTRICTIONS
IMPOSED BY PUBLIC LAW 100-418 WILL EXPIRE ON
DECEMBER 28, 1991, AND HIS JANUARY 13, 1989, MEMO IS **

Referred To:	Date:	Referred To:	Date:
(1) JMD;FLICKINGER	12-18-91	(5)	
(2)		(6)	
(3)		(7)	
(4)		(8)	

W/IN:

PRTY:

1

OPR:

EHZ

INTERIM BY:

Sig. For: JMD

DATE:

Date Released:

Remarks

** HEREBY RESCINDED AS OF THAT DATE.

(SEE E.S. 89012401112 CONTROL SHEET ATTACHED.)

INFO CC: OAG, DAG.

(1) FOR APPROPRIATE HANDLING.

Other Remarks:

OLA CONTACT:

KMM 12-19-91

FILE: OFFICE OF MANAGEMENT & BUDGET (OMB)

J911218 4994

CROSS REFERENCES:

1. TRADE/Restraints

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY



OFFICE OF FEDERAL
PROCUREMENT POLICY

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

RECEIVED
DEPARTMENT OF JUSTICE

91 DEC 17 P3:27

DEC 9 1991

EXECUTIVE SECRETARIAT

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

FROM:

Allan V. Burman
Allan V. Burman
Administrator

SUBJECT:

Expiration of Restrictions on the Procurement of
Products or Services from Toshiba Machine Company,
Toshiba Corporation, Kongsberg Trading Company and
Kongsberg Vaapenfabrikk

Sections 2442-43 of Public Law 100-418 (102 Stat. 1364) and Section 2-201 of Executive Order 12661, December 27, 1988, imposed restrictions on the procurement of products or services from the above firms. Guidelines for implementing the restrictions were provided in a memorandum that I issued on January 13, 1989. The procurement restrictions imposed by P.L. 100-418 will expire on December 28, 1991, and my January 13, 1989 memorandum is hereby rescinded as of that date.

The Federal Acquisition Regulatory Councils have been requested to change Federal Acquisition Regulation (FAR) Part 25 to reflect the expiration of the procurement restrictions. I have also asked the General Services Administration to remove, as of December 28, 1991, the names of the above entities from their listing of "Parties Excluded from Procurement Programs."

Questions regarding this memorandum may be directed to Charles Clark of the OFPP staff at (202) 395-6803.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: DAMUS, ROBERT G., ACTING GENERAL COUNSEL, OMB
To: DESIGNATED AGENCY HEADS (CC: AG.) ODD: 12-13-91
Date Received: 12-11-91 Date Due: NONE Control #: X91121120516
Subject & Date

12-10-91 MEMO (COPY) ATTACHING A PROPOSED EXECUTIVE ORDER
ENTITLED, "DELEGATION OF REPORTING FUNCTIONS UNDER THE
IMMIGRATION REFORM AND CONTROL ACT OF 1986." REQUESTS
ANY COMMENTS THE DEPARTMENT MAY HAVE ON THIS PROPOSAL NO
LATER THAN CLOSE OF BUSINESS, FRIDAY, DECEMBER 13, 1991.
ADVISES THAT AGENCIES THAT DO NOT RESPOND BY THE
DECEMBER 13, 1991, DEADLINE WILL BE REPORTED AS NOT
OBJECTING TO THE PROPOSAL.

	Referred To:	Date:	Referred To:	Date:	
(1)	OLC;FLANIGAN	12-11-91	(5)		W/IN:
(2)			(6)		
(3)			(7)		PRTY:
(4)			(8)		1
	INTERIM BY:		DATE:		OPR:
	Sig. For: OLC		Date Released:		MAU

Remarks

INFO CC: OAG, DAG.

(1) FOR APPROPRIATE HANDLING. ADVISE EXEC. SEC. OF ACTION
TAKEN.

01-21-92 PER OLC/BETTE FARRIS, ORAL COMMENTS WERE GIVEN
TO OMB IN DECEMBER. OMB REDRAFTED AND MORE COMMENTS WERE
GIVEN IN JANUARY 1992. OLC IS WORKING W/OMB DIRECTLY ON
THIS MATTER. DUE DATE CHANGED TO NONE. (HBR).

Other Remarks:

RJF 12-11-91
FILE: OFFICE OF MANAGEMENT AND BUDGET (OMB)
I911211 5628

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

e/o
10 Dec 91



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 10, 1991

RECEIVED
DEPARTMENT OF JUSTICE

'91 DEC 11 P1:56

EXECUTIVE SECRETARIAT

MEMORANDUM FOR DESIGNATED AGENCY HEADS
(SEE ATTACHED DISTRIBUTION LIST)

FROM: Robert G. Damus *RGD*
Acting General Counsel

SUBJECT: Proposed Executive Order Entitled "Delegation of
Reporting Functions Under the Immigration Reform
and Control Act of 1986"

Attached is a proposed Executive order entitled "Delegation
of Reporting Functions Under the Immigration Reform and Control
Act of 1986".

It was prepared by the White House Counsel's office, in
accordance with the provisions of Executive Order No. 11030, as
amended.

On behalf of the Director of the Office of Management and
Budget, I would appreciate receiving any comments you may have
concerning this proposal. If you have any comments or
objections, they should be received no later than close of
business Friday, December 13, 1991. Please be advised that
agencies that do not respond by the December 13, 1991 deadline
will be reported as not objecting to the proposal.

Comments or inquiries may be submitted by telephone to
Mr. Mac Reed or Ms. Bess Weaver of this office (phone: 202-395-
5600; Fax: 202-395-7294).

Thank you.

Attachment - Distribution List
- Proposed Executive order

cc: Bob Grady
Kim Gibson
Janet Hale
Frank Hodsoll
Bob Howard
Jim MacRae
Jim Murr
Tom Scully

DISTRIBUTION LIST

Honorable William P. Barr
United States Attorney General

Honorable Lynn Martin
Secretary
Department of Labor

Honorable Charles E.M. Kolb
Deputy Assistant to the President
for Domestic Policy

EXECUTIVE ORDER

- - - - -

DELEGATION OF REPORTING FUNCTIONS UNDER THE
IMMIGRATION REFORM AND CONTROL ACT OF 1986

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and Title IV of the Immigration Reform and Control Act of 1986, P.L. 99-603 ("Reform Act"), it is hereby ordered as follows:

Section 1. The Attorney General shall:

- (a) perform, in coordination with the Secretary of Labor, the functions vested in the President by section 401 of the Reform Act (8 U.S.C. 1364);
- (b) perform, except for the functions in section 402(3) (A), the functions vested in the President by section 402 of the Reform Act (8 U.S.C. 1324a note); and
- (c) perform, insofar as they relate to the initial report described in section 404(b), the functions vested in the President by section 404 of the Reform Act (8 U.S.C. 1255a note).

Sec. 2. The Secretary of Labor shall:

- (a) perform the functions vested in the President by section 402(3) (A) of the Reform Act (8 U.S.C. 1324a note);
- (b) perform the functions vested in the President by section 403 of the Reform Act (8 U.S.C. 1188 note); and
- (c) perform, insofar as they relate to the second report described in section 404(c), the functions vested in the President by section 404 of the Reform Act (8 U.S.C. 1255a note).

Sec. 3. The functions delegated by sections 1 and 2 of this Order shall be performed in accordance with the procedures set forth in OMB Circular A-19.

Sec. 4. This Order shall be effective immediately.

THE WHITE HOUSE,

THE WHITE HOUSE
WASHINGTON

December 5, 1991

MEMORANDUM FOR RICHARD G. DARMAN

FROM: C. BOYDEN GRAY *cm*

SUBJECT: Proposed Executive Order Delegating the
President's Authority to Submit to Congress
Certain Reports Under the Immigration Reform and
Control Act of 1986

I am submitting herewith a proposed executive order for processing by the Office of Management and Budget in accordance with Executive Order 11030, as amended. The proposed order would delegate to the Attorney General and the Secretary of Labor the President's responsibility for submitting to Congress periodic reports required under four sections of the Immigration Reform and Control Act of 1986. The reports are technical in nature and routinely have been forwarded late to the President for transmission to Congress. Under the proposed order, the reports would still be submitted to other concerned agencies (including the White House and OMB) for policy clearance, but the President no longer would have to transmit them to Congress.

I would appreciate OMB's prompt handling of this matter, preferably by December 13, 1991.

Attachment
Tab A Proposed Executive Order

DOJ EXECUTIVE SECRETARIAT CROSS-REFERENCE RECORD



CONTROL NUMBER: 91112019425

DARMAN, RICHARD DIR. OMB

THE ENTIRE DOCUMENT PACKET FOR THE CONTROLLED
CORRESPONDENCE INDICATED BY THE ABOVE EX.SEC.
CONTROL NUMBER HAS BEEN FILED IN THE FOLLOWING
PRIMARY FILE LOCATION WITHIN THE SUBJECT FILES
OF THE ATTORNEY GENERAL.

PRIMARY FILE: PERSONNEL/General

16 Nov 91

OFFICE OF MANAGEMENT AND BUDGET (OMB)

16 Nov 91

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: MacRAE, JAMES B., JR., OMB
To: REGULATORY CONTACTS AT EXEC. DEPTS. (AG.) ODD: 02-21-92
Date Received: 12-12-91 Date Due: 02-21-92 Control #: X91121320579
Subject & Date

12-10-91 MEMO DESCRIBING THE GUIDELINES AND PROCEDURES FOR
PUBLISHING THE APRIL 1992 "UNIFIED AGENDA OF FEDERAL
REGULATIONS." ATTACHES ALL THE MATERIALS NEEDED TO PREPARE
THE AGENDA. STATES THAT IT IS IMPORTANT THAT AGENCIES MEET
THE FEBRUARY 21, 1992, SUBMISSION DATE, AND THAT EACH AGENCY
PROVIDE IN THE TIMETABLE SECTION AN ESTIMATED DATE FOR THE
"NEXT ACTION" -- THE FIRST ACTION SCHEDULED TO OCCUR AFTER
APRIL 1, 1992. **

Referred To:	Date:	Referred To:	Date:	W/IN:
(1) OPD;SCHLESINGE	12-13-91	(5)		
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: OPD		Date Released: 03-25-92		MAU

Remarks

** (SEE EXEC. SEC. 91062511539 AND 91110718869 - CONTROL
SHEETS ATTACHED.)
INFO CC: OAG, DAG, JMD, OLC.
(1) FOR APPROPRIATE HANDLING.
03-25-92 OPD REPLIED BY LETTER DATED 03-18-92. (TJ)

Other Remarks:

WBD 12-13-91
FILE: OFFICE OF MANAGEMENT AND BUDGET (OMB)
J911213 4940

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

Q10 10 Dec 91



U.S. Department of Justice
Office of Policy Development

Director

Washington, D.C. 20530

March 18, 1992

Regulatory Information Service Center
Suite 500
750 17th Street, N.W.
Washington, D.C. 20006

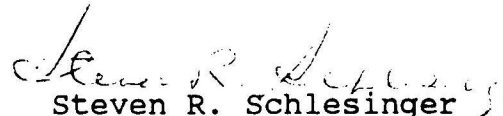
TO WHOM IT MAY CONCERN:

Our staff has entered data for our April 1992 semiannual agenda into the Regulatory Information System using our own computer terminals.

We certify that as of March 18, 1991, this data is correct, and the enclosed materials accurately reflect the information in our data base as of today. We authorize the Center to combine the data to be printed as part of the April 1992 Unified Agenda.

If we have any changes to our data after this date, we will make them by notifying the staff of the Center by phone or in writing, and have Center staff make the updates or changes we request.

Sincerely,


Steven R. Schlesinger
Director

DEPARTMENT OF JUSTICE

8 CFR Ch. I

21 CFR Ch. I

28 CFR Ch. I

Regulatory Agenda

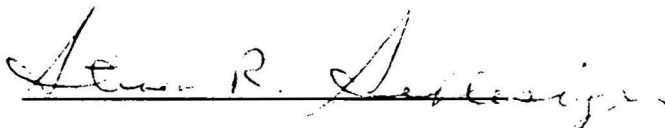
AGENCY: Department of Justice.

ACTION: Regulatory agenda.

SUMMARY: The Department of Justice is publishing its April 1992 regulatory agenda pursuant to Executive Order No. 12291, "Federal Regulation," 3 CFR part 127 (1981 Compilation) and the Regulatory Flexibility Act, 5 USCA sections 601-612 (West 1984).

FOR FURTHER INFORMATION CONTACT: Erik Reid, Office of Policy Development, Department of Justice, Room 4262, 10th and Constitution Ave., NW, Washington, DC 20530 (202) 514-2456.

Dated: March 18, 1992



Steven R. Schlesinger,

Director, Office of Policy Development.



U.S. Department of Justice

Washington, D.C. 20530

March 18, 1992

Office of Federal Register
Washington, D.C. 20408

TO WHOM IT MAY CONCERN:

As Federal Register Liaison Officer, I authorize the Regulatory Information Service Center to assemble the enclosed signed preamble (original and two certified copies) with the computer printout of our regulatory agenda for submission to the Office of the Federal Register for publication in the **Unified Agenda of Federal Regulations**.

I also authorize the Government Printing Office to bill the Department of Justice for printing our agenda using Billing Code 9A090101.

Sincerely,

Jeffrey K. Shapiro
Attorney Advisor
Office of Legal Counsel

DEPARTMENT OF JUSTICE

OVERVIEW

The Department of Justice (DOJ) does not have a high level of regulatory activity. The regulatory goals of DOJ are implemented through only a small number of its component agencies, including:

- o The Immigration and Naturalization Service (INS) will continue to implement provisions of Public Law 101-649, The Immigration Act of 1990 (IMMACT) by setting forth two new regulatory actions. These include:
 - Visitors for Business: The Immigration and Naturalization Service and the State Department will be evaluating the need for changes in present policy regarding the B-1 visa for visitors for business, in light of the provisions in IMMACT that place a labor market test on the related temporary worker category H-1B and limit that category to 65,000 visas per year.
 - Application for Extension of Voluntary Departure: INS will propose new regulations to standardize the present, more informal process of applying for extension or reinstatement of voluntary departure, in order to implement provisions in Section 545 of IMMACT that limit certain kinds of discretionary relief available to aliens who fail to comply with conditions imposed in connection with a grant of voluntary departure.

INS will implement, through regulatory actions, technical amendments to IMMACT which were passed during the first session of the 102nd Congress.

- Administrative Naturalization - Judicial Oath Administration Ceremonies: The Immigration Act of 1990 (IMMACT) provided for administrative naturalization by the Attorney General in place of judicial naturalization. However, Section 102 of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 authorizes eligible courts to elect to reserve a 45-day period in which to administer a judicial oath of naturalization. This will require development of new regulations implementing the new judicial authority, while proceeding with a final rule implementing the other naturalization provisions of IMMACT.

- o The Drug Enforcement Administration (DEA), which is responsible for controlling abuse of narcotics and dangerous drugs by restricting the aggregate supply of those drugs. DEA accomplishes its objectives through coordination with State, local, and other Federal officials in drug enforcement activities; development and maintenance of drug intelligence systems; regulation of legitimate controlled substances and chemical activities; and enforcement, coordination and intelligence-gathering activities with foreign government agencies.
- o The Statute establishing the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and giving authority to make grants for juvenile justice and delinquency prevention improvement programs is the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended (42 U.S.C. 5601 et seq.). The State Relations and Assistance Division administers the formula grants program for OJJDP. Regulations and general requirements as set forth in the Federal Register are applicable to formula grant recipients under the JJDP Act of 1974, as amended. Applicants must assure compliance or submit necessary information on these requirements. Major initiatives will be continued and new initiatives may be issued in 1992 when reauthorization is approved.

The Department also has under its jurisdiction a number of other important activities, including the U.S. Marshals Service, the Criminal Division, and the Federal Prison System.

Under Executive Order 12778, pursuant to Section 7(d), the Attorney General issued guidance for the implementation of the Civil Justice Reforms on January 30, 1992. This guidance was published in the Federal Register at 57 FR 3640. It instructed agencies to apply the Executive Order to litigation commenced on or after the effective date of January 21, 1992. In order to promote more efficient litigation actions involving the United States Government, the Civil Justice Reform guidelines direct all Federal agencies with litigation authority to implement a variety of reforms, including actions to: streamline and expedite discovery by offering to share core information; use expert witness testimony only where it is based on widely accepted theories; provide notice of potential affirmative suits; expedite settlement discussions; utilize alternative dispute resolution (ADR) techniques; use a litigation checklist to promote legislation that addresses important recurring issues of interpretation; and improve case management procedures.

The Department will continue its general regulatory policy and practices, which adhere to the Administration's regulatory principles, as stated in section 2 of Executive Order 12291 and section 1(d) of Executive Order 12498.

AREAS OF REGULATORY ACTIVITY

As indicated above, DEA's regulatory focus concerns the legitimate drug industry and, since the passage of the Chemical Diversion and Trafficking Act, the legitimate chemical industry. Proposed rules under consideration for 1992 which affect these industries are summarized below:

- o The Chemical Control and Environmental Responsibility Act of 1991, if enacted, would require that DEA publish regulations governing, among other things, the registration of chemical distributors, importers, and exporters which handle designated chemicals necessary for the production of illicit drugs. Current information indicates that approximately 1200 firms would be affected, all of which would require oversight by DEA.
- o The Controlled Substances Monitoring Act of 1991, if enacted, will require substantial changes to existing regulations to allow for the use of an electronic order system for Schedule II transactions between DEA registrants in lieu of current requirement that all such transfers be pursuant to DEA issued order forms. Such a system would also be applicable to the transfer of all other controlled substances not currently requiring DEA order forms. Regulations would also specify requirements for electronic order transfer systems, to include such stipulations that the information must be simultaneously transferred to DEA, that various files and records be available, that safeguards be employed, and that DEA generate analytical reports of distribution patterns from this data and provide such information to the States.

In February 1991, DEA proposed a regulation which would exempt affiliated practitioners (physician assistants, nurse practitioners) from DEA registration and allow them to prescribe controlled substances utilizing the DEA registration of their sponsoring physician with a unique identifying suffix. The purpose of this proposed regulation was to provide a mechanism to allow such individuals to engage in controlled substance related activities allowed for under various state practice acts which are usually limited in nature and subject to a collaborative agreement between the affiliated practitioner and a medical doctor. DEA registration would not be required of or granted to "affiliated practitioners" unless the State in which they practice grants them full, independent authority to handle controlled substances. Due to an overwhelming number of comments to this proposal and to a great deal of variation among the various State laws, DEA will be reevaluating this issue in light of its impact on the public interest as well as on the professionals to which it applies. Most likely, the current proposal will be withdrawn.

The Office of Management and Budget is again revising the "Uniform Administrative Requirements for Grants to State and Local Governments." In the past the Office of Justice Programs (OJP) has taken the lead for the Department in preparing the response and publication of this rule. It is anticipated that all Federal agencies will adopt this common rule and that OJP will provide staff work in its adoption for the Department. The Department's existing common rule is codified in 28 CFR Part 66 and will be amended by the proposed changes.

- o Uniform Administrative Requirement for Grants and Cooperative Agreements to State and local Governments. This rule is being revised to update uniform administrative requirements for Assistance Awards to State and local Governments. This will revise the rule published in the Federal Register in March, 1988.
- o Formula Grants Program (Office of Juvenile Justice and Delinquency Prevention). This program is being revised to comply with new statutory authority which will become law in 1992.

SIGNIFICANT REGULATORY ACTIONS

CIVIL DIVISION

FINAL RULE STAGE

CLAIMS UNDER THE RADIATION EXPOSURE COMPENSATION ACT

Problem To Be Solved

The Department of Justice (DOJ) must promulgate regulations, guidelines, and procedures for implementing the Radiation Exposure Compensation Act of 1990, 21 U.S.C. 2210, which provides for humanitarian payments of up to \$100,000 to persons who were exposed to radiation either from atmospheric nuclear tests or underground uranium mines, and who subsequently developed one of the cancers of diseases specified by the Act. Payments are limited to funds actually appropriated.

Need for Federal Solution

Under section 6 of the Act, Congress directed the Attorney General to issue regulations, procedures, and guidelines for filing resolving and paying claims under the Act within 180 days from the date the statute was enacted. The proposed rules will set forth the manner in which a claim will be filed, including the documentation to be submitted with the claim, the guidelines for meeting the statutory eligibility requirements, and the procedures to be followed by DOJ personnel in handling all claims filed under the Act.

Approach

The proposed rules will be developed and implemented by the Constitutional and Specialized Tort Staff, Civil Division, to conform to the requirements for eligibility set forth in the Act. This office has consulted with other Departments, as required by the Act, to develop the guidelines for documenting the statutory eligibility requirements. In 1992, Congress appropriated \$30,000,000 for payments under the Program and \$1,900,000 and 17 positions to the Civil Division to administer the Program. The 1993 requests currently pending before Congress seek \$170,750,000 for payments and \$2,722,000 for administrative expenses.

Next Steps

Legal deadline: Other, Statutory, April 13, 1991

Proposed regulations were published in September 1991. The notice and comment period ended in October 1991. A draft of the final regulations was approved by OMB in February 1992 and is awaiting final approval by the Attorney General before being published in the Federal Register. The processing of claims will

begin as soon as the final regulations have been published;
payments can begin 30 days after publication.

Milestones:

Action:

Date:

NPRM.....September 9, 1991 56 FR 45907
NPRM Comment Period End.....October 24, 1991
Final Action.....March 1, 1992

Agency Contact

Helene M. Goldberg, Director
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Ben Franklin Station
Washington, DC 20044-0146
(202) 501,7020

RIN: 1105-AA15

CIVIL RIGHTS DIVISION

NONDISCRIMINATION ON THE BASIS OF AGE IN FEDERALLY ASSISTED PROGRAMS; IMPLEMENTATION OF THE AGE DISCRIMINATION ACT OF 1975

Final Rule Stage

Problem To Be Solved

The Department of Justice (DOJ) must promulgate regulations to implement the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101-6017, with regard to programs and activities receiving assistance from DOJ.

Need for Federal Resolution

The Act requires each Federal agency that extends Federal financial assistance to issue an implementing resolution. DOJ is an agency distributing Federal financial assistance.

Approach

The Act prohibits, subject to certain exceptions, discrimination on the basis of age in federally assisted programs. Pursuant to the Act, the Secretary of Health and Human Services (HHS) has issued a general regulation (45 CFR Part 90, 44 FR 33768 (June 12, 1979)) to guide Federal agencies in their implementation of the Act. The Act requires DOJ's rule to be approved by HHS.

Currently Projected Costs and Benefits

It is anticipated that the elimination of discriminatory age-related practices will not involve any significant expenditure by any program or activity that receives financial assistance from DOJ.

Next Steps

After extensive negotiation, an agreement has been reached between the Civil Rights Division and HHS regarding the language of the final regulation. The regulation is currently undergoing internal review within DOJ. Once the language of the final rule receives internal approval and OMB clearance, the rule will be published in the Federal Register as a final rule.

Milestones:

Action:

Date:

NPRM.....May 19, 1980

NPRM Comment Period End.....June 18, 1980 45 FR 32710

Final Action.....September 1992

Agency Contact

Stewart B. Oneglia
Chief
Coordination and Review Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66118
Washington, D.C. 20035-6118
(202) 307-2222
TDD: (202) 307-2678

RIN: 1190-AA03

**NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS OR
ACTIVITIES RECEIVING ASSISTANCE FROM THE DEPARTMENT OF JUSTICE**

Prerule Stage

Problem To Be Solved

Section 902 of the Education Amendments of 1972 (title IX), Public Law 92-318, requires each Federal department or agency that extends financial assistance to any education program or activity to issue regulations to effectuate the requirements of title IX.

Need for Federal Solution

The Department of Justice extends financial assistance to education programs and activities, and, thus, is required by statute, section 902 of the Education Amendments of 1972, to issue a regulation.

Approach

Title IX of the Education Amendments of 1972 generally prohibits discrimination on the basis of sex in federally assisted education programs or activities.

In order to ensure Government-wide consistency in the implementation of title IX, the Department will prepare a proposed regulation based primarily on the requirements set forth in title IX regulations that have been issued by other Federal agencies. As necessary, the regulatory provisions will be revised or updated to reflect subsequent statutory amendments or relevant case law. The proposed regulation will provide requirements in the areas of admissions and recruitment, opportunities to participate in academic and nonacademic portions of an education program, and employment in education programs.

Currently Projected Costs and Benefits

It is anticipated that the provision of an equal opportunity on the basis of sex will not involve any significant expenditure by any education program or activity that receives financial assistance from the Department of Justice.

Legal deadline: No deadline in statute.

Agency Contact

Stewart B. Oneglia
Chief
Coordination and Review Section
Civil Rights Division
U.S. Department of Justice
P.O. Box 66118
Washington, D.C. 20035-6118
(202) 307-2222
TDD (202) 307-2678

RIN:

IMMIGRATION AND NATURALIZATION SERVICE

ADMINISTRATIVE NATURALIZATION - JUDICIAL OATH ADMINISTRATION CEREMONIES

Final Rule Stage

Problems To Be Solved

Section 102 of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 authorizes eligible courts to elect to reserve a 45 day period in which to administer the oath of naturalization to applicants who have passed the Immigration and Naturalization (INS) examination. Implementation of this new provision requires revision of 8 CFR sections 337 and 339. As a result of the extensive changes made to naturalization by the Immigration Act of 1990 (IMMACT), interim regulations with a comment period were promulgated during the spring and summer of 1991. This new provision was enacted before the earlier interim regulation could be published in final form, creating the question of how to handle the principal final rule while still publishing changes mandated by the Technical Amendments Act.

Need for Federal Resolution

The INS must publish a final rule for the principal naturalization activity changes brought about by IMMACT while simultaneously developing regulations to implement the 1991 Act in order to assure timely administration of the newly enacted court authority to administer naturalization oath.

Approach

INS will remove sections 337 and 339 from the final rule publication to implement IMMACT changes, and will republish these two sections as an interim rule with comments. Since sections 337 and 339 will continue in effect as part of the interim rules, this will allow the major provisions of IMMACT to be administered without undue interruption, and at the same time let the public know that new rules are being promulgated.

Economic Impact

No overall Federal cost increases are expected as a result of passage of the Immigration and Naturalization Technical Amendments Act of 1991.

Legal deadline: Interim, Statutory, thirty days from Presidential signature on H.R. 3049.

Milestones:

Action:

Date:

Interim Rule With Comments.....May 1992

Final ActionJuly 1992

Agency Contact

Stella Jarina
Immigration and Naturalization Service
U.S. Department of Justice
425 I Street, N.W.
Washington, D.C. 20536
(202) 514-5014

RIN:

VISITORS FOR BUSINESS

Final Rule Stage

Problem To Be Solved

On November 29, 1990, the President signed into law the Immigration Act of 1990 (IMMACT '90), Public Law 101-649. Although the most significant regulations resulting from this new law have already been promulgated, one additional area may need to be addressed. IMMACT '90 placed a labor condition application (labor market test) on the temporary worker category H-1B and limits the category to 65,000 visas per year. Current Immigration and Naturalization Service (INS) policy, as well as Department of State policy, permits the use of B-1 visas for individuals who would otherwise qualify the H-1B visas for individuals who would otherwise qualify the H-1B status provided the individual will not be compensated from a United States source and with certain other restrictions. Both INS and the Department of State are concerned that this current policy may be in conflict with the revised statute.

Need for Federal Solution

INS is specifically responsible for implementing IMMACT, including ensuring that all regulations are in conformity with the statute. Although regulations and policy instructions regarding the B-1 category are not specifically affected by IMMACT, the possibility of indirect effects must be addressed.

Approach

Current policy, in the form of INS Operations Instructions and the Department of State's Foreign Affairs Manual will be reviewed jointly by the two agencies. Any policy changes will be made through the rulemaking process. Both agencies will simultaneously publish proposed rules, analyze comments and revise policies accordingly.

Economic Impact

Since aliens currently admitted as B-1 in lieu of H-1 would, if the policy is amended, simply be admitted as H-1B, there would be no economic impact.

Legal deadline: No specific deadline.

Agency Contact

Michael L. Schaul
Immigration and Naturalization Service
U.S. Department of Justice
425 I Street, N.W.
Washington, D.C. 20536
(202) 514-5014

RIN:

APPLICATION FOR EXTENSION OF VOLUNTARY DEPARTURE

Prerule Stage

Problem To Be Solved

Section 545 of the Immigration Act of 1990 created a new section of law (section 242B) which places limitations on certain discretionary relief available to aliens who fail to comply with conditions imposed when the benefit of voluntary departure is granted to them.

Need for Federal Solution

At present, the process by which an alien applies for extension or reinstatement of voluntary departure is informal. There is no requirement that the alien make such application in writing, nor is there a requirement that the Service respond to such application in writing except where the alien is applying for extension or reinstatement of voluntary departure granted under section 244(e)(1) of the Act. In order for the Service to implement the new legislation, the record for each alien must clearly reflect that the alien did in fact violate the terms of his or her voluntary departure.

Approach

The Service proposes to make uniform the application and response process by publishing regulations which require the use of a form application with fee to apply for extension or reinstatement of voluntary departure.

Currently Projected Costs and Benefits

No agency costs will be incurred as a result of this regulations. The social costs will be those borne by aliens applying for this benefit by filing a completed application with fee. The fee for this application has not yet been determined. The social benefits will be the additional revenue collected and deposited into the general Treasury fund.

Legal deadline: None

Milestones:

Action:

Date:

NPRM.....March, 1992

Agency Contact

Gale David
Detention and Deportation Officer
Immigration and Naturalization Service
U.S. Department of Justice
425 I Street, N.W., Room 1102
Washington, D.C. 20536
(202) 514-1958



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

RECEIVED
DEPARTMENT OF JUSTICE

DEC 10 1991

'91 DEC 12 P4:15

EXECUTIVE SECRETARIAT

MEMORANDUM FOR REGULATORY CONTACTS AT EXECUTIVE DEPARTMENTS
AND ESTABLISHMENTS

FROM: James B. MacRae, Jr. *JBM*
Acting Administrator
and Deputy Administrator
Office of Information and
Regulatory Affairs

SUBJECT: April 1992 Unified Agenda of Federal Regulations

This memorandum describes guidelines and procedures for publishing the April 1992 Unified Agenda of Federal Regulations (see Attachment 1).

Agencies are asked to revise the computer printouts (Update Documents) of the information that appeared in the October 1991 Agenda and prepare "Regulatory Information Data Forms" for new items that did not appear in their previous agendas, including actions that began and ended between issues of the Agenda.

The Unified Agenda continues to help fulfill the statutory requirement for the Procurement Regulatory Activity Report, pursuant to the Office of Federal Procurement Policy Act Amendments of 1988 (41 U.S.C. 402). There is one change in the Procurement data element (Block 13 on the data forms). For procurement-related actions, when answering the question as to whether or not there is a paperwork burden associated with the action, the agency may now check "Undetermined" if the determination has not yet been made. However, by the time the action is at the final rule stage in its development, the paperwork burden should be clear and an answer of "Undetermined" must be changed to a "Yes" or "No."

All the materials you need to prepare your agenda are attached. Please remember to send us an original and two certified copies (or three originals) of your preamble and a letter (sample attached) authorizing the printing of the Agenda.

It is important that agencies meet the February 21, 1992, submission date. Late submissions could jeopardize agenda publication to the detriment of those agencies that submit on time. We may not be able to make any changes submitted to us by

agencies after that date; therefore, please make sure your submission is accurate and complete as of that date.

It is also important that you provide in the Timetable section an estimated date for the "Next Action" -- the first action scheduled to occur after April 1, 1992. The entries for the Agenda will be sorted by agency and then into four categories according to their stage of rulemaking: Prerule, Proposed, Final, and Completed Actions. The computer will do this automatically, placing each entry according to the Next Action you provide. Please note that for entries containing them, you must indicate the stage of rulemaking for Supplemental Actions (11a) in order for these entries to be sorted properly.

Questions regarding the content of agency agendas may be directed to the appropriate desk officer in the Office of Information and Regulatory Affairs, OMB. Questions regarding the OFPP report may be directed to the Office of Federal Procurement Policy, Room 9013, New Executive Office Building, Washington, DC 20503, (202) 395-6810. Requests for additional materials and questions regarding production of agendas may be directed to the Regulatory Information Service Center, Suite 500, 750 17th Street NW., Washington, DC 20006, (202) 634-6220.

Attachments

cc:

Heads of Executive Departments and Establishments

**Guidelines and Procedures for the April 1992
Unified Agenda of Federal Regulations**

Background. The Unified Agenda of Federal Regulations is published semiannually under the authority of section 5 of Executive Order No. 12291 (Federal Regulation). In addition, the Agenda furthers the purposes of the Regulatory Flexibility Act (94 Stat. 1167; 5 U.S.C. 605). The Agenda also helps fulfill the requirement for a Procurement Regulatory Activity Report, as required by the Office of Federal Procurement Policy Act Amendments of 1988 (OFPP Act) (102 Stat. 4055; 41 U.S.C. 402).

Coverage. The requirement to publish an Agenda applies to all executive departments and establishments subject to Executive Order No. 12291 and the OFPP Act. Those departments and establishments not subject to the Executive order or the OFPP Act are asked to follow the provisions of this memorandum on a voluntary basis in order to further the purposes set forth above.

Scope of the Unified Agenda.

a. Regulatory agendas scheduled for publication in April 1992 shall describe all Significant and Other Rulemaking Actions that the agency expects to conduct or review during the 12 months following publication. This includes, at a minimum, any plans to publish or otherwise implement an Advance Notice of Proposed Rulemaking, a Notice of Proposed Rulemaking, or a Final Rule. This also includes any plans to conduct a review pursuant to 5 U.S.C. 610 or section 3(i) of Executive Order No. 12291. An agency need not include in its regulatory agenda those rulemaking actions that are excluded by section 1(a) of Executive Order No. 12291. Also, an agency need not include any additional rulemaking actions that OMB has agreed may be omitted.

b. The Office of Management and Budget has determined that the data required for the Procurement Regulatory Activity Report should be included with the information collected for the Unified Agenda. The information provided by agencies for the Unified Agenda will be used by OFPP to produce this report, thereby eliminating duplicate reporting requirements. Agency submissions of procurement-related regulatory actions must include information on all actions that are covered by section 22 of the OFPP Act. These submissions must also include all other actions that will result in a change in or addition to the Federal Acquisition Regulation (FAR) System (FAR and FAR supplements).

Structure of the Unified Agenda. The Unified Agenda will be structured as follows:

- a. Rulemaking actions will be grouped by agency and then by subagency.
- b. Within each agency grouping, rulemaking actions will be grouped according to the next regulatory action that the agency expects to take during the succeeding year. These groupings will be: (1) Prerulemaking Actions; (2) publication or other implementation of Notices of Proposed Rulemaking; (3) publication or other implementation of Final Rules; and (4) Completed Actions.

Publication of the Unified Agenda of Federal Regulations for April 1992.

- a. Agencies shall publish their respective portions of the April 1992 Unified Agenda in a uniform format. Agencies and commissions not subject to Executive Order No. 12291 are urged to use the uniform format for their regulatory agendas.
- b. Agencies shall submit the applicable forms and other documents to the Office of Management and Budget, Office of Information and Regulatory Affairs.

Applicable forms are (1) Agenda Update Documents (which are the computer printouts provided by OMB) and (2) for new regulatory actions, the Regulatory Information Data Form (one copy).

Each agency shall also submit one signed original and two certified copies of its preamble to its regulatory agenda. The preamble shall meet the normal requirements for printing in the Federal Register, including the agency's billing code and a list of CFR parts affected.

Each agency shall submit to OMB a letter addressed to the Office of the Federal Register, authorizing the Regulatory Information Service Center (the Center) to assemble the agency's agenda and authorizing the Government Printing Office (GPO) to bill the agency for printing its portion of the April 1992 Unified Agenda. An agency entering its own data into the Center's computer must certify that a paper copy of the data is correct.

- c. OMB will ensure that all agency agendas are compiled and forwarded as one package to the Office of the Federal Register, which will have the GPO print them in a single day's issue of the Federal Register. Each agency will be able to obtain reprint copies of its individual agenda through the GPO procurement process.

Submission Date. Agencies must submit all completed agenda materials not later than February 21, 1992, to: Office of

Management and Budget, Office of Information and Regulatory Affairs, Room 3236, New Executive Office Building, Washington, DC 20503.

Further Information. For further information on the requirements of this memorandum, contact your agency's desk officer in the Office of Information and Regulatory Affairs (OIRA), OMB.

For further information concerning the OFPP report, contact: Office of Federal Procurement Policy, OMB; telephone (202) 395-6810.

For further information concerning automated agenda production, information requirements, format, completion, or submission of agency agendas, contact: Regulatory Information Service Center; telephone (202) 634-6220.

SCREENED
FOIA # 60048
(URTS 16444)
By: NARA (RD-F)
Date: 2/6/2019

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: WALTERS, JOHN P., CHIEF OF STAFF/NATL. SECURITY ADV., ONDCP
To: AG. ODD: NONE
Date Received: 10-18-91 Date Due: NONE Control #: X91101817944
Subject & Date
10-16-91 "DEAR BILL" UNCLASSIFIED LETTER ATTACHING THE
"CONFIDENTIAL" SECOND EDITION OF THE INTERAGENCY ASSESSMENT
OF COCAINE MOVEMENT.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;	10-18-91	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1S
	INTERIM BY:			DATE:		OPR:
	Sig. For:	NONE		Date Released:		MAU

Remarks
INFO CC LETTER ONLY: OAG (WEATHERBEE), DAG.
(1) FOR INFORMATION.
.
LIMITED DISTRIBUTION.

Other Remarks:

RCW 10-21-91
FILE: OFFICE OF NATIONAL DRUG CONTROL POLICY (ONDCP)

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

~~CONFIDENTIAL~~

OFFICE OF NATIONAL DRUG CONTROL POLICY
EXECUTIVE OFFICE OF THE PRESIDENT
Washington, D.C. 20500

RECEIVED
DEPARTMENT OF JUSTICE

'91 OCT 18 P1:59

OCT 16 1991

EXECUTIVE SECRETARIAT

UNCLASSIFIED (WITH CONFIDENTIAL ATTACHMENT)

Mr. William P. Barr
Acting Attorney General
Department of Justice
Washington, DC 20530

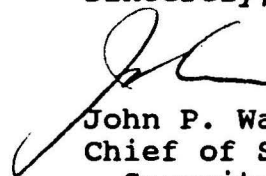
Bill
Dear Mr. Barr,

I am pleased to provide you a copy of the second edition of the Interagency Assessment of Cocaine Movement, which came off the presses over the weekend.

The interagency process that produces the assessment is now working quite well, following some inevitable growing pains earlier this year. We were especially glad to have the El Paso Intelligence Center participate as the "office of primary responsibility" for matters relating to overland smuggling. DEA, FBI, and I&NS also lent welcome support.

The challenge from here on is not only to keep the assessment current, but to probe more deeply into the less-visible aspects of cocaine smuggling. Justice's continued support for this undertaking is greatly appreciated.

Sincerely,



John P. Walters
Chief of Staff/National
Security Advisor

Attachment (1): Interagency Assessment of
Cocaine Movement

UNCLASSIFIED (WITH CONFIDENTIAL ATTACHMENT)

~~CONFIDENTIAL~~

DOJ EXECUTIVE SECRETARIAT CROSS-REFERENCE RECORD



CONTROL NUMBER: 91120620288

MARTINEZ, BOB DIR ONDCP

THE ENTIRE DOCUMENT PACKET FOR THE CONTROLLED
CORRESPONDENCE INDICATED BY THE ABOVE EX.SEC.
CONTROL NUMBER HAS BEEN FILED IN THE FOLLOWING
PRIMARY FILE LOCATION WITHIN THE SUBJECT FILES
OF THE ATTORNEY GENERAL.

PRIMARY FILE: DRUGS/Drug Free Workplace

5 Dec 91

OFFICE OF NATIONAL DRUG CONTROL POLICY (ONDCP)

5 Dec 91

DOJ EXECUTIVE SECRETARIAT CROSS-REFERENCE RECORD



CONTROL NUMBER: 91121720706

MARTINEZ, BOB DIR - ONDCP

THE ENTIRE DOCUMENT PACKET FOR THE CONTROLLED
CORRESPONDENCE INDICATED BY THE ABOVE EX.SEC.
CONTROL NUMBER HAS BEEN FILED IN THE FOLLOWING
PRIMARY FILE LOCATION WITHIN THE SUBJECT FILES
OF THE ATTORNEY GENERAL.

PRIMARY FILE: BUDGET/DOJ

12 Dec 91

OFFICE OF NATIONAL DRUG CONTROL POLICY (ONDCP)

12 Dec 91

SCREENED
FOIA # 60048
(URTS 16444)
By: NARA (RD-F)
Date: 2/6/2019

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: NEWMAN, CONSTANCE BERRY, DIRECTOR, OFFICE OF PERSONNEL MGMT.
To: HEADS OF DEPTS. & INDEPENDENT AGENCIES (AG.) ODD: 12-31-91
Date Received: 05-06-91 Date Due: 01-16-92 Control #: X910507082559
Subject & Date

04-29-91 MEMO CALLING ATTENTION TO THE REQUIREMENT FOR
AGENCIES TO SUBMIT TO THE OFFICE OF PERSONNEL MANAGEMENT
(OPM) ANNUAL ACCOMPLISHMENT REPORTS AND PLAN CERTIFICATIONS
FOR THE DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)
AND THE FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM
(FEORP). OPM IS IMPLEMENTING FIVE INITIATIVES TO FURTHER
ASSIST AGENCIES IN PLANNING AND COORDINATING SUBMISSION OF
THESE REPORTS, TAKING INTO CONSIDERATION OTHER REPORTING **

	Referred To:	Date:	Referred To:	Date:	
(1)	JMD;FLICKINGER	01-06-92	(5)		W/IN:
(2)	OAG;	01-09-92	(6)		
(3)	JMD;EXEC.SEC.	01-17-92	(7)		PRTY:
(4)			(8)		1
	INTERIM BY:		DATE:		OPR:
	Sig. For: AG.		Date Released: 01-17-92		PAB

Remarks

- (1) W/NOTE FROM ODAG/MARCY TO JMD DATED 01-06-92
REQUESTING FURTHER INFORMATION REGARDING THIS PACKAGE.
RETURN THRU EXEC. SEC., ROOM 4400-AA. (HBR)
(2) ACTING DAG CONCURRED ON 01-08-92. (PACKAGE BYPASSED
EXEC. SEC. W/NOTE FROM JMD/MOSCATO TO ODAG/MARCY DATED
01-07-92.) FORWARDED TO OAG FOR AG SIGNATURE. (CYN)
(3) AG SIGNED STATEMENT & PROGRAMS DATED 01-17-92. **

Other Remarks:

** ORIGINALS HANDCARRIED TO JMD;EXEC. SEC. FOR HANDLING
ON 01-17-92. (TJ)

JMD REVISED; KMM SAW; DAG CONCURRED 01-08-92; E.S.
FILE: OFFICE OF PERSONNEL MANAGEMENT (OPM), AG CHRON

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: NEWMAN, CONSTANCE BERRY, DIRECTOR, OFFICE OF PERSONNEL MGMT.
To: HEADS OF DEPTS. & INDEPENDENT AGENCIES (AG.) ODD: 12-31-91
Date Received: 05-06-91 Date Due: 01-06-92 Control #: X91050708255
Subject & Date

04-29-91 MEMO CALLING ATTENTION TO THE REQUIREMENT FOR
AGENCIES TO SUBMIT TO THE OFFICE OF PERSONNEL MANAGEMENT
(OPM) ANNUAL ACCOMPLISHMENT REPORTS AND PLAN CERTIFICATIONS
FOR THE DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)
AND THE FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM
(FEORP). OPM IS IMPLEMENTING FIVE INITIATIVES TO FURTHER
ASSIST AGENCIES IN PLANNING AND COORDINATING SUBMISSION OF
THESE REPORTS, TAKING INTO CONSIDERATION OTHER REPORTING **

	Referred To:	Date:	Referred To:	Date:	
(1)	JMD;FLICKINGER	05-07-91	(5)		W/IN:
(2)	DAG;TERWILLIGE	12-27-91	(6)		
(3)			(7)		PRTY:
(4)			(8)	JMD;FLICKINGER 01-06-92	1
	INTERIM BY:		DATE:		OPR:
	Sig. For: AG.		Date Released: "SEE 9"		PAB

Remarks

** REQUIREMENTS. ADVISES THAT DVAAP AND FEORP SUBMISSIONS
ARE DUE TO OPM ON OR BEFORE 12-31-91.

INFO CC: OAG, OAG (DICKMAN), DAG

(1) FOR APPROPRIATE HANDLING; ADVISE EXEC. SEC. OF ACTION
TAKEN.

(2) W/MEMOS (2) FROM AAG/JMD TO THE AG DATED 12-26-91

Other Remarks:

SUBMITTING THE AFFIRMATIVE ACTION PROGRAM PLAN AND THE
DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM PLAN UPDATE AND
ACCOMPLISHMENTS REPORT FOR SUBMISSION TO OPM; THRU DAG FOR
CONCURRENCE. NOTE SHORT DUE DATE! (HBR)

KMM SAW; RET'D TO JMD FOR REVISIONS 01-06-92
FILE: OFFICE OF PERSONNEL MANAGEMENT (OPM), AG CHRON
J910507 1850

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

U.S. DEPARTMENT OF JUSTICE
DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP) PLAN UPDATE

FISCAL YEAR 1992
OCTOBER 1, 1991 - SEPTEMBER 30, 1992


U.S. Department of Justice
AGENCY

10th Street and Constitution Avenue, N.W.
Washington, DC 20530
ADDRESS


92,105
NUMBER OF EMPLOYEES COVERED BY THIS PLAN

ARLENE S. HUDSON
Department Selective Placement Program Manager
NAME/TITLE OF PREPARER


Voice:
(202) 501-8745
TDD:
(202) 501-7908
TELEPHONE NUMBERS


TED MCBURROWS
NAME AND SIGNATURE OF THE DIRECTOR
EQUAL EMPLOYMENT OPPORTUNITY STAFF

12/18/91
DATE


HARRY H. FLICKINGER
NAME AND SIGNATURE OF THE
ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

12/26/91
DATE


WILLIAM P. BARR
NAME AND SIGNATURE OF THE ATTORNEY GENERAL

1/17/92
DATE



U.S. Department of Justice
Deputy Assistant Attorney General
for Administration
January 7, 1992

NOTE TO: Kristine M. Marcy
Associate Deputy
Attorney General

FROM: *Anthony C. Moscato*
Anthony C. Moscato

This is in response to your questions
on the attached package.

1. The package consists of two separate plans: The Disabled Veterans Affirmative Action Plan (DVAAP) Update, which is submitted to the Office of Personnel Management, and the Affirmative Action Plan Accomplishment Report and Update for Persons with Disabilities, submitted to the EEOC. Both require the Attorney General's signature on the cover page while the DVAAP Update also includes a policy statement to reflect the Attorney General's continuing commitment to and support of the program.
2. The documents should be dated as of the date of signature.
3. The first action memo has been revised to provide for concurrence by the Deputy Attorney General.
4. The other changes indicated by you have also been made.

Attachment



January 6, 1992

TO: JMD

FROM: Kris Marcy

I found this package very confusing.

1. There appears to be 3 documents for AG to sign. Please indicate clearly what they are and why there are 3 separate ones. Please add signature tabs.

2. Please advise as to what date should be shown on signature line.

3. On first action memo is there any reason DAG concurrence is shown as NA.

Thanks!

RUSH



ACTION MEMORANDUM

ATTORNEY GENERAL/DEPUTY ATTORNEY GENERAL

SPECIAL

Subject
 Disabled Veterans Affirmative Action Program
 (DVAAP) Plan Update/Accomplishments Report,
 for FY 1992/1991, respectively.

Date**DEC 26 1991**

TO: William P. Barr
 Attorney General

Harry A. Flickinger
FROM: Harry A. Flickinger
 Assistant Attorney General
 for Administration

Summary: The DVAAP Plan Update and Accomplishments Report
 were developed in accordance with office of Personnel Management
 (OPM) regulations (5 CFR 720) and Department of Justice policy.

Action Required: Signature of Attorney General

Due Date/Action Forcing Event: OPM requirements set 12/31/91 as date of submission to
 that agency.

DOJ Coordination: Division/Component and Views (attach comments
 if other than concurrence)

Concurrences:

	DAG	OLC	OPD	OLA	PAO	JMD	Marcy ODAG
Initials	<i>[Signature]</i>	N/A	N/A	N/A	N/A	N/A	<i>YLM</i>
Date	<i>1/8/92</i>						<i>1/7/92</i>

External Coordination: Agency and Views (attach comments if other
 than concurrence).

Contact Point for
Additional Information: Arlene Hudson, 501-8745

I. ADMINISTRATION OF THE DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)

A. BUREAUS COVERED BY THIS PLAN UPDATE

Bureau of Prisons
Drug Enforcement Administration
Federal Bureau of Investigation
Immigration and Naturalization Service
Office of Justice Programs
Offices of United States Attorneys
Offices, Boards, and Divisions
United States Marshals Service

The bureau known as the Offices, Boards, and Divisions (OBD's) consists of the following components:

Office of the Attorney General
Office of the Deputy Attorney General
Office of the Solicitor General
Office of the Inspector General
Office of Legal Counsel
Office of Policy Development/
Freedom of Information Act
Coordination
Office of Intelligence Policy and Review
Office of Professional Responsibility
Office of Legislative Affairs
Office of Liaison Services
Office of Public Affairs
Justice Management Division
Antitrust Division
Civil Division
Civil Rights Division
Office of Special Counsel for
Immigration Related Unfair
Employment Practices
Criminal Division
Environment and Natural Resources Division
Tax Division
Interpol - U.S. National Central Bureau
Executive Office for Immigration Review
Pardon Attorney
U.S. Parole Commission
Offices of U.S. Trustees
Community Relations Service
Foreign Claims Settlement Commission

B. SCOPE OF PLAN UPDATE:

All bureaus and their components are covered by the provisions within this Disabled Veterans Affirmative Action Program (DVAAP) Plan Update for equitable employment opportunities for disabled veterans.

C. AUTHORITIES:

5 CFR 720, Subpart C - Affirmative Employment Programs;
Disabled Veterans Affirmative Action Program

38 U.S.C. 101(2) - Definition of "veteran"

38 U.S.C. 2011(3) - Definition of "disabled veteran"

38 U.S.C. 2104 - Employment within the Federal Government

5 U.S.C. 3112 - Disabled Veterans noncompetitive appointments

29 U.S.C. 791(b) - Employment of Handicapped Individuals:
Federal Agencies: Affirmative Action Program Plans

D. DEFINITIONS OF DISABLED VETERAN/VETERAN:

1. Disabled Veteran:

- A veteran who is entitled to compensation under laws administered by the Department of Veterans Affairs, or
- A person who was discharged or released from active duty because of a service-connected disability.

2. Veteran:

- A person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

E. LABOR-MANAGEMENT RELATIONS:

This plan creates no new obligations to consult, confer, or negotiate with recognized labor organizations beyond those contained in the Civil Service Reform Act of 1978, Chapter 71 of Title 5, and U.S. Department of Justice regulations. However, where such recognition exists, management officials, supervisors, and other representatives of management responsible for formulating, implementing, and administering EEO plans and programs must be mindful of their obligations to consult, confer, or negotiate with recognized labor organizations in accordance with their level of recognition

and appropriate rights. Such obligations exist, of course, where the development and administration of Equal Employment Opportunity (EEO) plans and programs involve the establishment of new personnel policies, practices, or other matters affecting working conditions. To the extent the plan is in conflict with existing agreements, the Act requires that application in whole or in part may have to be suspended for the term of said agreement in the unit in question.

F. PROGRAM ADMINISTRATION:

The program to develop and enhance employment opportunities for veterans who are disabled is a part of the Department's Selective Placement Program (SPP) for Persons and Veterans with Disabilities.

The official ultimately responsible for the DVAAP for the Department of Justice is the Attorney General.

The primary official responsible for establishing and overseeing the DVAAP Departmentwide is the Assistant Attorney General for Administration (AAG/A), who also is the Director of Equal Employment Opportunity for the Department of Justice (DOJ). The AAG/A is assisted by a Director and Staff for equal employment opportunity programs.

The heads of components are responsible for the development of the in-house DVAAP Plan Update and Accomplishments Report and for the implementation of this DVAAP Plan Update.

The Departmentwide official responsible for providing technical assistance, guidance, and the monitoring of activities and programmatic progress is the Director, Equal Employment Opportunity Staff (EEOS), Justice Management Division (JMD). The Director, EEOS, is assisted by a staff member who is the Departmentwide SPP Manager. Within each bureau's equal employment opportunity (EEO) system there are officials with similar duties and responsibilities.



Office of the Attorney General
Washington, D. C. 20530

II. POLICY STATEMENT


The Disabled Veterans Affirmative Action Program (DVAAP) is designed to provide equity in employment opportunity for the Nation's disabled veterans, especially those with a 30 percent or more disability. I fully support the program's objectives of actively recruiting and hiring these individuals who have sacrificed so much in the service of their country.

The DVAAP embodies several special employment authorities to assist managers, supervisors, and other hiring officials in readily identifying and hiring qualified disabled veterans for the various positions of the Department. Additionally, special employment processes have been developed and authorized for veterans of Operations Desert Shield/Desert Storm that may be utilized where appropriate.

The Department has a number of Selective Placement Program Managers within each bureau and at the Department level, who are prepared to assist you in any area regarding the employment of disabled veterans, including addressing any questions regarding accessibility and accommodation. The names, addresses, and telephone numbers of these program managers are appended.

Recently, the Department held a Veterans Day Commemorative Program to honor our employees who are veterans, especially those who sustained disabilities during their valiant service in protecting our Nation. Commemorative programs are certainly appropriate, but by themselves, are not enough. We, as managers, supervisors, and employment officials, must show our pride in their service and commitment to this Nation by unhesitatingly recruiting and employing qualified disabled veterans into the Department's work force.

I know that I can count on the full support of each of you to continue the progress we have made in this area.


William P. Barr
Attorney General
11/17/92
Date

III. DVAAP ACTION ITEMS - FY 1992

A. RECRUITING METHODS

1. Expand recruitment to organizations such as centers for independent living, DVAAP and/or Selective Placement Program Managers/Coordinators within other Federal agencies, Special Emphasis Program Managers within Justice and other Federal agencies, and, where appropriate, the auxiliary components of organizations which represent disabled veterans.
2. Promote the sharing of employment applications received from disabled veterans with other Special Emphasis Program Managers throughout the Department, in order to increase the range of employment consideration for the applicant.
3. List a telephone number to a telecommunications device for the deaf (TDD) for each contact person indicated on job vacancy announcements, so that speech/hearing-impaired persons may have access to employment information as do others without similar impairments.
4. Sponsor a seminar for personnel specialists and assistants regarding sensitivity to and awareness of employment of disabled veterans and persons with disabilities. Include in such training programs the use of the special appointing authorities applicable to disabled veterans/persons with disabilities, as well as other recruitment/employment programs.
5. Continue to use recruiting methods set out in Appendix A.

B. METHODS TO BE USED TO INFORM COMPONENTS AND FIELD INSTALLATIONS OF THEIR RESPONSIBILITIES UNDER THIS PLAN UPDATE:

1. Continue to distribute the Department's approved Affirmative Action Program Plan Update to managers, hiring officials, equal employment/affirmative action officers, and to SPP Managers/Coordinators. Further, dissemination will be to in-house disabled veteran/handicap/EEO groups, and to other employees upon request. Bureau plan updates will continue to have a similar distribution pattern. Plan updates are to be available in alternative formats to accommodate print-impaired readers.

2. Continue to provide technical guidance periodically at both the Department and bureau levels, using a number of methods, including directives, policy statements, operations memoranda, manual issuances, and orientation/training sessions. If orientation/training is by closed circuit television, methods should be used to accommodate persons with speech/hearing impairments.
3. Continue to conduct on-site visits and reviews by officials with DVAAP responsibilities to provide technical guidance and oversight on a first-hand basis.

C. METHOD OF MONITORING, REVIEWING, AND EVALUATING THE
DVAAP PLAN UPDATE:

1. Continue to review the various statistical reports such as Human Resource Management Information System (HRMIS), Personnel Pay System (PERSPAY), National Finance Center, and Central Personnel Data File (CPDF), and other special statistical data on a periodic basis, so as to assess progress, problems or deficiencies pertaining to the recruitment, employment, and advancement of disabled veterans.
2. Identify those bureaus that need to utilize special recruiting initiatives to increase employment of disabled veterans will develop and submit a plan for such methods to the Assistant Attorney General for Administration. The EEOS will provide technical guidance and assistance to bureau officials in identifying appropriate methods to be applied.
3. Continue to conduct on-site visits and reviews to ascertain the viability of the DVAAP, as well as to provide oversight and technical guidance on a first-hand basis.
4. Include disabled veterans on EEO Committees, where committees exist, or ascertain their views through other methods of consultation.

D. STATUS OF DISABLED VETERANS WITHIN THE DEPARTMENT OF JUSTICE

1. Disabled veterans continued to be employed within all all of the occupational categories of PATCO¹ and within the various pay groupings. A similar employment pattern exists for severely--30 percent or more--disabled veterans.

- a. The employment of 30 percent or more disabled veterans continued to increase:²

324 for FY 1991

304 for FY 1990

- b. The employment of disabled veterans continued to increase:

1,880 for FY 1991

1,836 for FY 1990

The Department will continue to develop aggressive action items in its DVAAP Plan Updates to further the increase of disabled veterans into its work force. In addition, because the law enforcement positions comprise over a third of the Department's work force and such positions require rigid physical standards which severely disabled veterans usually cannot meet, Justice components with such positions will continue to be strongly encouraged to recruit and hire severely disabled veterans for their non-law enforcement jobs.

2. Of the total disabled veterans work force of 1,880, 726 received promotions.²

¹ PATCO (Professional, Administrative, Technical, Clerical, and Other) is the Office of Personnel Management's designation of occupational groupings.

² FBI not included.

U.S. DEPARTMENT OF JUSTICE
ON-BOARD EMPLOYMENT OF TOTAL,
VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES FOR PAY PERIOD
ENDING SEPTEMBER 30, 1990
HEADQUARTERS AND FIELD EMPLOYEES
(FBI EXCLUDED)

ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES

BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
HEADQUARTERS EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
ALL OCCUPATIONS	ALL EMPLOYEES	12540	100.0	1703	13.6	186	1.5	36	.3				
	MINORITIES	4579	100.0	427	9.3	48	1.0	9	.2				
	WOMEN	6783	100.0	102	1.5	9	.1	2					
PROFESSIONAL/ADMINISTRATIVE	ALL EMPLOYEES	8258	100.0	1437	17.4	163	2.0	32	.4				
	MINORITIES	1794	100.0	274	15.3	37	2.1	7	.4				
	WOMEN	3479	100.0	56	1.6	5	.1	2	.1				
GS & EQUIV. 5-12	ALL EMPLOYEES	2684	100.0	252	9.4	31	1.2	11	.4				
	MINORITIES	972	100.0	93	9.6	13	1.3	3	.3				
	WOMEN	1645	100.0	26	1.6	4	.2	2	.1				
GS & EQUIV. 13 +	ALL EMPLOYEES	4853	100.0	1082	22.3	123	2.5	20	.4				
	MINORITIES	734	100.0	174	23.7	23	3.1	3	.4				
	WOMEN	1648	100.0	29	1.8	1	.1						
TECHNICAL	ALL EMPLOYEES	1348	100.0	133	9.9	13	1.0	2	.1				
	MINORITIES	883	100.0	76	8.6	4	.5	1	.1				
	WOMEN	1071	100.0	21	2.0	3	.3						
GS & EQUIV. 1-4	ALL EMPLOYEES	3	100.0										
	MINORITIES												
	WOMEN	3	100.0										
GS & EQUIV. 5-12	ALL EMPLOYEES	1325	100.0	116	8.8	10	.8	1	.1				
	MINORITIES	879	100.0	72	8.2	4	.5	1	.1				
	WOMEN	1066	100.0	20	1.9	3	.3						
GS & EQUIV. 13 +	ALL EMPLOYEES	20	100.0	17	85.0	3	15.0	1	5.0				
	MINORITIES	4	100.0	4	100.0								
	WOMEN	2	100.0	1	50.0								
CLERICAL/OTHER WHITE-COLLAR	ALL EMPLOYEES	2576	100.0	72	2.8	5	.2	1					
	MINORITIES	1693	100.0	47	2.8	4	.2	1	.1				
	WOMEN	2057	100.0	25	1.2	1							
BLUE-COLLAR	ALL EMPLOYEES	105	100.0	33	31.4	2	1.9	1	1.0				
	MINORITIES	58	100.0	17	29.3	1	1.7						
	WOMEN	8	100.0										
HG 1-4	ALL EMPLOYEES	4	100.0	1	25.0								
	MINORITIES	4	100.0	1	25.0								
	WOMEN	1	100.0										

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ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES

BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
HEADQUARTERS EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
HG 5-8	ALL EMPLOYEES	35	100.0	11	31.4	1	2.9						
	MINORITIES	25	100.0	8	32.0	1	4.0						
	WOMEN	4	100.0										
HG 9 +	ALL EMPLOYEES	42	100.0	13	31.0	1	2.4	1	2.4				
	MINORITIES	13	100.0	5	38.5								
	WOMEN												
HL PAY PLAN	ALL EMPLOYEES	7	100.0										
	MINORITIES	5	100.0										
	WOMEN	1	100.0										
HS PAY PLAN	ALL EMPLOYEES	9	100.0	8	88.9								
	MINORITIES	3	100.0	3	100.0								
	WOMEN												
UNSPECIFIED OCCUPATIONS	ALL EMPLOYEES	253	100.0	28	11.1	3	1.2						
	MINORITIES	151	100.0	13	8.6	2	1.3						
	WOMEN	168	100.0										

ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES

BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
FIELD EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
ALL OCCUPATIONS	ALL EMPLOYEES	55702	100.0	12932	23.2	1568	2.8	288	.5				
	MINORITIES	16324	100.0	3811	23.3	515	3.2	99	.6				
	WOMEN	19561	100.0	524	2.7	76	.4	15	.1				
PROFESSIONAL/ADMINISTRATIVE	ALL EMPLOYEES	25157	100.0	6541	26.0	772	3.1	129	.5				
	MINORITIES	5661	100.0	1738	30.7	249	4.4	44	.8				
	WOMEN	7375	100.0	192	2.6	18	.2	3					
GS & EQUIV. 5-12	ALL EMPLOYEES	16002	100.0	4136	25.8	526	3.3	98	.6				
	MINORITIES	4477	100.0	1292	28.9	203	4.5	38	.8				
	WOMEN	5505	100.0	166	3.0	16	.3	3	.1				
GS & EQUIV. 13 +	ALL EMPLOYEES	5159	100.0	1998	38.7	226	4.4	30	.6				
	MINORITIES	857	100.0	398	46.4	44	5.1	6	.7				
	WOMEN	766	100.0	17	2.2	2	.3						
TECHNICAL	ALL EMPLOYEES	6685	100.0	1273	19.0	196	2.9	49	.7				
	MINORITIES	2406	100.0	489	20.3	80	3.3	21	.9				
	WOMEN	4265	100.0	125	2.9	17	.4	5	.1				
GS & EQUIV. 1-4	ALL EMPLOYEES	32	100.0	5	15.6	1	3.1	1	3.1				
	MINORITIES	10	100.0	1	10.0	1	10.0	1	10.0				
	WOMEN	21	100.0	3	14.3	1	4.8	1	4.8				
GS & EQUIV. 5-12	ALL EMPLOYEES	6642	100.0	1261	19.0	194	2.9	48	.7				
	MINORITIES	2392	100.0	487	20.4	79	3.3	20	.8				
	WOMEN	4244	100.0	122	2.9	16	.4	4	.1				
GS & EQUIV. 13 +	ALL EMPLOYEES	6	100.0	6	100.0	1	16.7						
	MINORITIES												
	WOMEN												
CLERICAL/OTHER WHITE-COLLAR	ALL EMPLOYEES	19937	100.0	3825	19.2	445	2.2	82	.4				
	MINORITIES	7321	100.0	1251	17.1	145	2.0	28	.4				
	WOMEN	7234	100.0	179	2.5	36	.5	5	.1				
BLUE-COLLAR	ALL EMPLOYEES	3170	100.0	1247	39.3	142	4.5	20	.6				
	MINORITIES	765	100.0	325	42.5	39	5.1	5	.7				
	WOMEN	206	100.0	15	7.3	2	1.0	1	.5				
WG 1-4	ALL EMPLOYEES	13	100.0	3	23.1								
	MINORITIES	6	100.0	1	16.7								
	WOMEN	1	100.0										

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ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES

BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
FIELD EMPLOYEES

OCCUPATIONAL CATEGORY	TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
	\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
WG 5-8	ALL EMPLOYEES	96 100.0	49 51.0		11 11.5		2 2.1					
	MINORITIES	48 100.0	22 45.8		6 12.5							
	WOMEN	11 100.0	2 18.2									
WG 9 +	ALL EMPLOYEES	150 100.0	101 67.3		19 12.7		4 2.7					
	MINORITIES	80 100.0	51 63.8		5 6.3		1 1.3					
	WOMEN											
NL PAY PLAN	ALL EMPLOYEES	119 100.0	29 24.4		1 .8							
	MINORITIES	38 100.0	14 36.8		1 2.6							
	WOMEN	21 100.0	1 4.8									
WS PAY PLAN	ALL EMPLOYEES	2788 100.0	1065 38.2		111 4.0		14 .5					
	MINORITIES	590 100.0	237 40.2		27 4.6		4 .7					
	WOMEN	173 100.0	12 6.9		2 1.2		1 .6					
UNSPECIFIED OCCUPATIONS	ALL EMPLOYEES	753 100.0	46 6.1		13 1.7		8 1.1					
	MINORITIES	171 100.0	8 4.7		2 1.2		1 .6					
	WOMEN	481 100.0	13 2.7		3 .6		1 .2					

U.S. DEPARTMENT OF JUSTICE
EMPLOYMENT TOTALS, VETERANS, AND DISABLED VETERANS
BY PATCO, AS OF SEPTEMBER 30, 1991

FEDERAL BUREAU OF INVESTIGATION

EMPLOYMENT OF TOTAL, VETERAN AND DISABLED VETERANS BY PATCO AS OF 10/03/91

	TOTAL	TOT VET	%	TOT	
ALL PERSONNEL	23867	3648	15.3	126	0.5
MINORITY	6147	409	6.7	14	0.2
FEMALE	10751	58	0.5		
PROF/ADMIN	13729	3166	23.1	112	0.8
MINORITY	2023	315	15.6	11	0.5
FEMALE	3249	30	0.9		
GRD 1 - 4	1				
MINORITY					
FEMALE	1				
GRD 5 - 12	5875	334	5.7	13	0.2
MINORITY	1288	60	4.7	1	0.1
FEMALE	2564	11	0.4		
GRD 13 AND UP	7680	2832	36.9	99	1.3
MINORITY	735	255	34.7	10	1.4
FEMALE	684	19	2.8		
TECHNICAL	3550	298	8.4	10	0.3
MINORITY	1312	51	3.9	2	0.2
FEMALE	2237	8	0.4		
GRD 1 - 4	20				
MINORITY	8				
FEMALE	14				
GRD 5 - 12	3432	257	7.5	9	0.3
MINORITY	1298	50	3.9	2	0.2
FEMALE	2218	8	0.4		
GRD 13 AND UP	98	41	41.8	1	1.0
MINORITY	6	1	16.7		
FEMALE	5				
CLK/OTH W/CLR	6087	100	1.6	2	
MINORITY	2617	35	1.3	1	
FEMALE	5155	19	0.4		
BLUE COLLAR	501	84	16.8	2	0.4
MINORITY	195	8	4.1		
FEMALE	110	1	0.9		
WG 1 - 4	134	2	1.5		
MINORITY	105				
FEMALE	86	1	1.2		
WG 5 - 8	130	8	6.2		
MINORITY	42	1	2.4		
FEMALE	8				
WG 9 AND UP	143	42	29.4	2	1.4
MINORITY	18	2	11.1		
FEMALE					
WL PAY PLAN	32	8	25.0		
MINORITY	17	1	5.9		
FEMALE	12				
WS PAY PLAN	36	18	50.0		
MINORITY	7	3	42.9		
FEMALE	3				

THERE ARE NO DISABLED VETERANS WITH 30% OR MORE DISABILITIES IN THE FBI.

Appendix A

Special Guidance
Disabled Veterans Affirmative Action Program (DVAAP)

Several documents have been reprinted and made a part of this attachment because each reprint will provide you with the basic information to implement the actions listed in the DVAAP Plan Update. Where appropriate, the information has been modified to reflect changes, such as the list of Selective Placement Program Managers for the Department and the Bureaus.

You are encouraged to develop and implement other actions to bring about progress in the recruitment, employment, and advancement of disabled veterans in your component.



Washington, D.C. 20530

To: Heads of Department Components
Executive, Administrative, Personnel and EEO Officers

DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)

The DVAAP is concerned with the recruitment, employment, and advancement of disabled veterans, placing a special emphasis on the employment of veterans with a 30 percent or more disability. The Department's DVAAP also encompasses the concepts of reasonable accommodation and accessibility.

Within the DVAAP, several provisions exist for the hiring of disabled veterans non-competitively, and include:

1. Non-competitive appointment authority for veterans with 30 percent or more service-connected disabilities;
2. The Veterans Readjustment Authority for Vietnam Era Veterans (VRA);
3. Special appointing authorities for persons with physical or mental disabilities.

All of the above employment authorities can provide, on an accelerated basis, a ready access to qualified disabled veterans for careers with your respective components.


Also, special employment processes have been developed for veterans of operation Desert Shield/Desert Storm, and are a part of this Appendix. An effective source with which to locate qualified, job-ready disabled veterans is the Department of Veterans Affairs (VA), through its Vocational Rehabilitation and Education Service. Information regarding the use of this resource is provided in this Appendix.

There are many other sources with which to establish a recruiting network so as to secure the employment applications of qualified, disabled veterans: agencies and organizations such as the President's Committee on Employment of People with Disabilities, Military discharge centers, U.S. Department of

Labor's Veterans' Employment and Training Service, Office of Personnel Management, Vocational rehabilitation offices, Disabled American Veterans, and many others.

To assist managers, supervisors, and hiring officials, there are Selective Placement Program Managers, both at the Department level and for each of the Bureaus, who are specialists in the functions of the Department's DVAAP: recruitment, employment, advancement, accessibility, and reasonable accommodation. Managers, supervisors, and hiring officials should avail themselves of the services which these persons can provide. A list of the Departmental and Bureau Selective Placement Managers is attached for your information and use.

The disabled veteran is a resource that must be utilized if the Department is to project to others its commitment to a diverse work force.


Harry H. Flickinger
Assistant Attorney General
for Administration

DEC 26 1991
Date

U.S. DEPARTMENT OF JUSTICE
SELECTIVE PLACEMENT PROGRAM MANAGERS FOR
PERSONS WITH DISABILITIES AND DISABLED VETERANS

BUREAU SELECTIVE PLACEMENT PROGRAM MANAGERS

BUREAU OF PRISONS

Perdita Johnson or
Veronica Taylor
Room 439 (HOLC BLDG)
320 First Street, NW
Washington, DC 20534
(202) 307-3175 (VOICE
and TDD)

OFFICE OF JUSTICE PROGRAMS

Barbara Wood
Room 602C (IND BLDG)
633 Indiana Avenue, NW
Washington, DC 20531
(202) 307-5901 (VOICE)
(202) 307-3130 (TDD)

DRUG ENFORCEMENT

ADMINISTRATION

Sharon Taylor
Room 7312 (WEST BLDG)
700 Army-Navy Drive
Arlington, VA 22202
(202) 307-8888 (VOICE)
(202) 307-8903 (TDD)

OFFICE OF U.S. ATTORNEYS

Darryl Thomas
Room 6010 (PAT BLDG)
601 D Street, NW
Washington, DC 20530
(202) 501-6952 (VOICE)
(202) 501-8400 (TDD)

FEDERAL BUREAU OF
INVESTIGATION

Gloria Lalka
Room 7901 (JEH BLDG)
9th & Penn. Ave., NW
Washington, DC 20535
(202) 324-4136 (VOICE)
(202) 324-2394 (TDD)

OFFICES, BOARDS, AND
DIVISIONS

Arlene Hudson
Room 7022 (PAT BLDG)
601 D Street, NW
Washington, DC 20530
(202) 501-8745 (VOICE)
(202) 501-7908 (TDD)

IMMIGRATION AND NATURALIZATION
SERVICE

Kathleen Joyce Jordan
Room 2210 (CAB BLDG)
425 Eye Street, NW
Washington, DC 20536
(202) 514-1246 (VOICE)

U.S. MARSHALS SERVICE

Cyntoria Carter
Suite 1241
600 Army-Navy Drive
Arlington, VA 22202-4210
(703) 307-9691 (VOICE)
1-800-423-0719 (TDD)

DEPARTMENTAL SELECTIVE PLACEMENT PROGRAM MANAGER

Arlene Hudson
Room 7022 (PAT BLDG)
601 D Street, NW
Washington, DC 20530
(202) 501-8745 (VOICE)
(202) 501-7908 (TDD)

RECRUITING METHODS

The following recruiting methods are to be used on a continuing basis.

1. Ensure that site(s) where recruitment and/or interview(s) are to be conducted is/are accessible.
2. Ensure that prior to recruitment and/or interview(s), special needs for accommodation have been solicited.
3. Ensure that reasonable accommodation(s) is/are provided to the known disability of the interviewee.
4. Ensure that recruitment and recruitment-related materials are in alternate formats for print-impaired persons.
5. Ensure that recruitment and recruitment-related literature contains language and information which will encourage individuals and veterans with disabilities to apply.
6. Ensure that interviewers have received orientation to the fundamentals of interviewing disabled veterans and individuals, and are comfortable in interacting with persons who have handicapping conditions.
7. Continue outreach efforts to solicit the applications of qualified disabled veterans for careers with the Department, with greater concentration on those veterans possessing a 30 percent or more disability. This includes advertisements in publications which focus on disabled veterans, campus newspapers, and brochures or souvenir publications of disabled veteran organizations.
8. Continue contacts with organizations providing referrals of job-ready disabled veteran applicants, such as the Paralyzed Veterans of America, Disabled American Veterans, Blinded Veterans Association, Department of Veterans Affairs (VA) Centers/Hospitals, Armed Forces discharge centers, State employment services, and State vocational rehabilitation offices.

9. Continue recruitment visits to the campuses of accredited colleges and universities to secure the applications of disabled veterans possessing qualifications for the career opportunities being promoted and to inform potential job candidates of such hiring programs as the honor law graduate/law student programs. Information will also be provided on opportunities for computer scientists and other computer-related skills, criminal justice degree candidates/graduates, as well as other disciplines required by the Department.
10. Continue to promote the use of special hiring authorities as a method to secure qualified 30 percent or more disabled veteran applicants for career opportunities with the Department.
11. Continue to provide to personnel offices reliable sources for the referral of qualified disabled veteran applicants for the Department's career opportunities.
12. Continue to provide the listing of VA Vocational and Rehabilitation officials to DOJ Personnel Offices so that these sources may be utilized by such offices in the recruitment of disabled veterans for career opportunities.
13. Forward a recruitment package which includes a listing of DOJ career opportunities, and bureau SPP Managers, as well as other information to the VA contacts mentioned in paragraph 1 above, so that the specialists may be encouraged to initiate contact and referrals of applicants to the SPP Managers and to Personnel Officers for present and upcoming job vacancies.
14. Recirculate to managers and supervisors the Department's Order setting out the method by which they may avail themselves of information, technical guidance, and other assistance relative to access to computer technology which can accommodate disabled employees and the DOJ component responsible for providing the assistance.
15. Continue to recruit at accredited vocational/trade schools to secure qualified disabled veteran applicants for the Department's technical, trades, and crafts positions.

U. S. D E P A R T M E N T O F J U S T I C E



S E L E C T I V E P L A C E M E N T

P R O G R A M

A P P O I N T M E N T A U T H O R I T I E S

HANDICAPPED PROGRAM APPOINTING AUTHORITIES

THE PHYSICALLY IMPAIRED

DEFINITION: A physically impaired person is one who: has a physical impairment which substantially limits one or more of such person's major life activities; has a record of such impairment; or is regarded as having such an impairment.

APPOINTMENT PROCEDURES

Competitive Appointment - Many physically impaired persons are able to qualify for competitive appointments like nonhandicapped employees.

Temporary Limited Appointment (Trial Appointment) - Handicapped employees who are unable to qualify for competitive appointment can be given a trial appointment not to exceed 700 hours (i.e., approximately 4 months). This appointing authority is recommended when the handicapped employee is required to demonstrate his or her job readiness. This type of appointment can also serve to overcome employer reluctance to hire physically handicapped persons because of concerns related to safe and efficient job performance and getting along with others in the workforce.

Excepted Appointment - Schedule A 213.3102(u). Eligibility for appointment under this authority is primarily based on the severity of the physical handicap. This authority provides an alternate route for employment of severely physically handicapped individuals. Job restructuring or modification of job tasks and work environment of a position may be required to accommodate the handicapped employee.

Certification Procedure - A severely physically handicapped person meets OPM's qualification requirements for a temporary limited appointment or an Excepted Appointment as described above, when certified by the Veteran's Administration or a State vocational agency.

Conversion to Competitive Status - Physically handicapped employees who are serving in an Excepted Appointment under Schedule A 213.3102(u) are eligible for noncompetitive conversion to competitive status after 2 years of successful performance. Agencies, not OPM, authorize conversions based on supervisory recommendations. Conversion is not mandatory for retention in the Schedule A position; however, there should be substantial justification for not recommending conversion of an employee who meets the minimum service requirement and demonstrates successful job performance.

THE MENTALLY OR EMOTIONALLY RESTORED

DEFINITION: A mentally or emotionally restored person is one who has experienced some mental or emotional difficulty, received professional treatment, and been judged by competent medical authority as ready to resume normal activities including employment.

APPOINTMENT PROCEDURES

Competitive Appointment - Many emotionally restored persons are able to qualify for competitive appointments like nonhandicapped employees.

Temporary Limited Appointment (Trial Appointment) - Handicapped employees who are unable to qualify for competitive appointment can be given a trial appointment not to exceed 700 hours (i.e., approximately 4 months). This appointing authority is recommended when the handicapped employee is required to demonstrate his or her job readiness. This type of appointment can also serve to overcome employer reluctance to hire emotionally restored persons because of concerns related to safe and efficient job performance and getting along with others in the workforce.

Excepted Appointment - Schedule B 213.3202(k). This authority provides mentally restored persons with an opportunity to update their skills and establish a successful performance record to counteract prejudice on the part of employers. FPM Letter 306-20 gives agencies, rather than OPM, the authority to make these appointments. Appointments under this authority are limited to 2 years.

Certification Procedure - It is anticipated that after 2 years of successful job performance, an emotionally restored person will not be at a competitive disadvantage for appointment and; therefore, must compete for any future Federal appointment, or have reinstatement or other noncompetitive eligibility.

Documentation - Agencies must maintain a record of each case (approved or disapproved) for a period of 2 years. Because of the confidential nature of these records, they should be filed using the procedures for maintenance of medical records. Each case file should include the following: (a) the position description for the job being filled; (b) the Application for Federal Employment; (c) documentation of the history of the mental illness; (d) certification by a State or Veterans Administration Counselor that the proposed appointee is capable of functioning in the specific position, including a statement by the psychologist or

psychiatrist as to the capability of the proposed appointee to function in the work setting; and (e) documentation of the reasons for approval or disapproval of the appointment

Conversion to Competitive Status - There is no provision for converting emotionally restored persons to competitive status based on 2 years service under this authority. These employees must compete for future Federal appointment, or have reinstatement or other noncompetitive eligibility.

THE MENTALLY RETARDED

DEFINITION: Mental retardation is a chronic and lifelong condition. In most cases, individuals who are mentally retarded have the capacity, within limitations, to learn, to be educated, and to be trained for useful and productive employment. Mental retardation may range from mild to profound; however, the majority of mentally retarded persons who seek employment are capable of performing assigned work.

APPOINTMENT PROCEDURES

Competitive Appointment - In some cases, mentally retarded persons are able to qualify for competitive appointments like nonhandicapped employees. The State rehabilitation counselor should be involved in the placement and follow-up processes.

Excepted Appointment - Mentally retarded persons are normally appointed by use of the Schedule A 213.3102(t). Generally, these appointments are made on a continuing basis, without time limitation; however, temporary appointments may be arranged with the mentally retarded person's rehabilitation counselor.

The following procedures apply to hiring, placing, or terminating mentally retarded persons.

- (1) Agencies should make arrangements with the appropriate State vocational rehabilitation agency at the local level.
- (2) Prior to employing a mentally retarded applicant, the Agency must obtain a certificate from the rehabilitation agency which states that the applicant (a) has the ability to perform the duties of the position, (b) is physically qualified to do the work without hazard to self or others, and (c) is competent to maintain self in a work environment.
- (3) Agencies will fully utilize the advice and assistance provided by the State vocational rehabilitation agency in its normal followup process. This can normally be accomplished through the supervisor of the employee.
- (4) To ensure that the State vocational rehabilitation agency can make immediate arrangements to assist the mentally retarded employee with continued

rehabilitation, agencies will not terminate the employment of a mentally retarded person without prior notification of an appropriate State vocational rehabilitation counselor.

Conversion to Competitive Status - Mentally retarded employees who are serving in an Excepted Appointment under Schedule A 213.3102(t) are eligible for noncompetitive conversion to competitive status after 2 years of successful performance. Agencies, not OPM, may authorize conversions based on supervisory recommendations. Conversion is not mandatory for retention in the Schedule A position; however, there should be substantial justification for not recommending conversion of an employee who meets the minimum service requirement and demonstrates successful job performance.

VETERANS PROGRAM APPOINTING AUTHORITIES

Vietnam Era Veterans

DEFINITION: Under Public Law 101-237, enacted December 18, 1989, and made effective January 1, 1990, a Vietnam era veteran or Post-Vietnam era veteran is defined as a veteran who has (1) a service-connected disability; or during such era, (2) served on active duty in the Armed Forces in a campaign or expedition where a campaign badge has been authorized; and (3) served on active duty after the Vietnam era.

Vietnam Era - The Vietnam era is the period beginning August 5, 1964, and ending May 7, 1975. Public Law 101-237 specifically targeted the three categories of veterans described above for coverage under the law. Some veterans who served during the Vietnam era and were previously eligible for Veterans Readjustment Appointments (VRA) under the old law are no longer eligible. They are Vietnam era veterans who served during the Vietnam era and have neither a service-connected disability nor an authorized campaign badge.

VRA Appointment Eligibility

"Certain Vietnam era veterans" - means veterans who served during the Vietnam era and are disabled or eligible for a campaign badge.

"Post-Vietnam era veterans" - means veterans who served more than 180 days on active duty, any part of which fell after the Vietnam era (i.e., after May 7, 1975) and up to the present date, whether or not the veteran is disabled or eligible for a campaign badge.

Time Limit on Appointment Eligibility - The time limit on appointment eligibility is the 4-year period beginning on the date of the veteran's discharge or release from active duty, or the 2-year period from the beginning of the enactment of Public Law 101-237, December 18, 1989, whichever is later. This means that veterans who are being considered for appointment after December 17, 1991, must have been discharged within the 4-years preceding the expiration date of the current law, December 31, 1993, and that effective December 17, 1991, virtually no Vietnam era veteran will be eligible for appointment unless recently discharged or retired.

APPOINTMENT PROCEDURES

Temporary Limited Appointment - Veterans who are eligible for VRA appointments may be appointed at the grade levels authorized under the VRA Program. However, these appointments do not lead to conversion to career-conditional appointments.

Competitive Appointment - Many Vietnam era veterans are able to qualify for competitive appointments in the same manner as other employees.

Veterans Readjustment Appointment-Excepted Appointment - Eligible Vietnam era veterans (as described above under "certain Vietnam era veterans and Post-Vietnam era veterans") may be given excepted appointments to positions otherwise in the competitive service. Vietnam era veterans may be appointed up to grade GS-11. Post-Vietnam era veterans may be appointed up to the grade GS-09 level.

Conversion - After the employee has completed two years of substantially continuous service under a veterans readjustment appointment and performance has been satisfactory, the agency must convert the appointment to career-conditional or career appointment within thirty days after the completion of the two-year service requirement.

Education/Training Agreements - Training agreements are still required under the new law; however, training agreements are no longer required for veterans with 15 or more years of education. A sample training agreement which can be modified to fit organizational needs may be found in the Federal Personnel Manual Chapter 307, Appendix A.

APPOINTMENTS OF OTHER DISABLED VETERANS

Disabled veterans who have been rated by a military department or the Department of Veterans Affairs as having a compensable service-connected disability of 30 percent or more may be given temporary limited appointments. The disability must be documented by a notice of retirement or discharge due to service-connected disability from active military service dated at any time, or by a notice of compensable disability from the Department of Veterans Affairs, dated within the last 12 months.

Veterans Readjustment Appointments

Expanded Job Opportunities in the Federal Service

NEW--FOR VETERANS

Public Law 102-16, effective March 23, 1991, makes it even easier for Federal agencies to hire Armed Forces veterans who served during and after the Vietnam era.

The VRA (Veterans Readjustment Appointment) authority is a special hiring program. Eligible veterans do not have to take examinations or compete with nonveteran candidates. VRA appointees are initially hired for a 2-year period. Successful completion of the 2-year VRA appointment leads to a permanent civil service appointment.

★ Who is eligible for a VRA appointment?

Veterans who served more than 180 days active duty, any part of which occurred during the Vietnam era (August 5, 1964 to May 7, 1975), and have other than a dishonorable discharge, are eligible if they have (1) a service-connected disability or (2) a campaign badge (for example, the Vietnam Service Medal).

Post-Vietnam-era veterans, who entered the service after May 7, 1975, are eligible if they served on active duty for more than 180 days and have other than a dishonorable discharge.

The 180-day service requirement does not apply to veterans discharged from active duty for service-connected disability.

★ How long are veterans eligible for VRA appointments after they leave the service?

Vietnam-era veterans qualify for a VRA appointment until 10 years after discharge or until December 31, 1993, whichever date is later.

Post-Vietnam-era veterans are eligible for 10 years after the date of their last discharge or until December 17, 1999, whichever date is later.

Eligible veterans with a service-connected disability of 30% or more can be hired without time limit.

★ Are there any other restrictions on eligibility for a VRA appointment?

No. Under the new VRA law, all veterans described above are eligible. (The law eliminated a previous requirement that VRA appointees have fewer than 16 years of education.)

★ What jobs can be filled under the VRA authority?

Federal agencies now can use the VRA authority to fill any white collar position up through GS 11, blue collar jobs up through WG 11, and equivalent jobs under other Federal pay systems.

★ How do veterans apply for VRA appointments?

Veterans should contact the agency personnel office where they want to work. Agencies recruit candidates and make VRA appointments directly without getting a list of candidates from OPM. Veterans can get a list of local agency personnel offices from the Veterans Representative at the OPM offices listed on the back of this sheet.

★ Are disabled veterans entitled to special consideration?

Agencies must give preference to disabled veterans over other veterans.

★ Is training available after appointment?

In some cases, agencies provide special training programs for VRA appointees. A program could include on-the-job assignments or classroom training.

★ Can VRA appointees work part-time?

Agencies may be able to set up part-time work schedules for individuals who want to attend school or handle family or other responsibilities.

(over)



United States
Office of
Personnel
Management

Career Entry Group
Staffing Policy Division

1900 E Street, NW
Washington, DC 20415-0001

CE-100
June 1991

FOIA # 60048 (URTS 16444) DocId: 70106526 Page 37

NARA-18-1003-A-000627

U.S. Office of Personnel Management Area Office Veterans Representatives for Employment Inquiries

Alabama

Lee Hockenberry
Huntsville Area Office
(205) 544-6130

Alaska

John Busteed
Anchorage Area Office
(907) 271-3617

Arizona

Jack Mallin
Phoenix Area Office
(602) 640-6808

Arkansas

(See Oklahoma)

California

John Andre
Los Angeles Area Office
(818) 575-6507

Susan Fong Young
Sacramento Area Office
(916) 551-3275

Mark Gunby
San Francisco Area Office
(415) 744-7216

Colorado

Doris Veden
Denver Area Office
(303) 969-7036

Connecticut

A.J. Dubois
Hartford Area Office
(203) 240-3607

Delaware

(See Philadelphia, PA)

District of Columbia

William Robinson
Washington Area Service Ctr.
(202) 606-1848

Florida

R.C. McFadyen
Orlando Area Office
(407) 648-6150

Georgia

Ruth Walker
Atlanta Area Office
(404) 331-4588

Hawaii

Charles Tamabayashi
Honolulu Area Office
(808) 541-2790

Idaho

(See Washington State)

Illinois

Victoria Jones
Chicago Area Office
(312) 353-6799

Indiana

Sharon Elliot
Indianapolis Area Office
(317) 226-6245

Iowa

(See Kansas City, MO)

Kansas

Verla Davis
Wichita Area Office
(316) 269-6797

Kentucky

(See Ohio)

Louisiana

Melody Silvey
New Orleans Area Office
(504) 589-2768

Maine

(see New Hampshire)

Maryland

Thomas Platt
Baltimore Area Office
(301) 962-3222

Massachusetts

Donald MacGee
Boston Area Office
(617) 545-6926

Michigan

Thomas Bixler
Detroit Area Office
(313) 226-2095

Minnesota

Paul McMahon
Twin Cities Area Office
(612) 725-3633

Mississippi

(See Alabama)

Missouri

Richard Krueger
Kansas City Area Office
(816) 426-6705

Kirk Hawkins
St. Louis Area Office
(314) 539-2341

Montana

(See Colorado)

Nebraska

(See Kansas)

Nevada

(See Sacramento, CA)

New Hampshire

Gloria Dunn
Portsmouth Area Office
(603) 433-0744

New Jersey

Don Hodge
Newark Area Office
(201) 645-2376

New Mexico

Rosa Benavidez
Albuquerque Area Office
(505) 768-1099

New York

Walter Cashin
New York Area Office
(212) 264-0442

Larry Burkett
Syracuse Area Office
(315) 423-6650

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Ayn Clayborne
Raleigh Area Office
(919) 790-2817

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(See Minnesota)

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(See Washington State)

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John Glooch
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Gene Hyden
Philadelphia Area Office
(215) 597-7670

George Horn
Pittsburgh Area Office
(412) 644-4355

Puerto Rico

Vivien Fernandez
San Juan Area Office
(809) 766-6620

Rhode Island

(See Connecticut)

South Carolina

(See North Carolina)

South Dakota

(See Minnesota)

Tennessee

Ralph Bunten
Memphis Area Office
(901) 544-3958

Texas

Frank McLamore
Dallas Area Office
(214) 767-9133

Jose Borrero
San Antonio Area Office
(512) 229-6613

Utah

(See Colorado)

Vermont

(See New Hampshire)

Virgin Islands

(See Puerto Rico)

Virginia

Valerie DeMeis
Norfolk Area Office
(804) 441-3362

Washington (State)

Robert Coleman
Seattle Area Office
(206) 553-4691

West Virginia

(See Ohio)

Wisconsin

(See Illinois)

Wyoming

(See Colorado)

June 1991

INTERAGENCY ADVISORY GROUP

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415

Secretariat
1900 E St., NW
(202) 632-6266

MAR 28 1991

MEMORANDUM FOR DIRECTORS OF PERSONNEL

FROM:

LEONARD R. KLEIN
ASSOCIATE DIRECTOR
FOR CAREER ENTRY

SUBJECT: Preference for Gulf Veterans

Director Constance Berry Newman has announced that the more than half-million United States Armed Forces members who served onsite in the Desert Shield/Desert Storm operations can claim veteran preference in Federal civil service employment. This is the largest number of service men and women to be covered since 1976, when preference ended for peacetime service.

To recognize the special sacrifices and outstanding performance of the Armed Forces, President Bush has established the Southwest Asia Service Medal for active duty personnel serving in military operations in Southwest Asia on or after August 2, 1990. Under the civil service laws, receiving a campaign medal is a basis for earning preference. The text of Executive Order 12754 of March 12, 1991, is printed on the reverse side of this memorandum.

Mrs. Newman pledged to provide full support to veterans as they are released from service: "I urge all Federal agencies to give every possible employment consideration to the dedicated and talented men and women of the Armed Forces as they return to civilian life."

As Federal employees who served in the Gulf theater return to their agencies, personnel offices should remind them to present their discharge papers (DD 214) showing the medal award to receive credit for veteran preference. New Federal job candidates should claim preference on their applications. To qualify for preference, medal holders must be honorably discharged and have served either 2 years or the full period called or ordered to active duty. The Application for Federal Employment, SF-171, June 1988 edition, includes instructions to veterans on that service requirement.

We are preparing an FPM Bulletin with further information. For questions, please contact Thomas O'Connor, 202-606-1407.

Attachment (reverse)

Presidential Documents

Executive Order 12754 of March 12, 1991

Establishing the Southwest Asia Service Medal

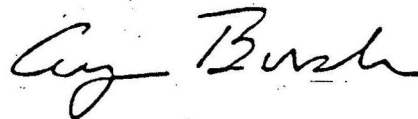
By the authority vested in me as President by the Constitution and the laws of the United States of America, including my authority as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

Section 1. There is established, with suitable appurtenances, the Southwest Asia Service Medal. It may be awarded to members of the Armed Forces of the United States who participated in military operations in Southwest Asia or in the surrounding contiguous waters or air space on or after August 2, 1990, and before a terminal date to be prescribed by the Secretary of Defense.

Sec. 2. The Southwest Asia Service Medal may be awarded posthumously to any person covered by, and under the circumstances described in, section 1 of this order.

Sec. 3. The Secretaries of the Military Departments, with the approval of the Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, are directed to prescribe uniform regulations governing the award and wearing of the Southwest Asia Service Medal.

THE WHITE HOUSE
March 12, 1991.



INTERAGENCY ADVISORY GROUP

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, DC 20415

Secretariat
1900 E St., NW
(202) 632-6266

JUN 14 1991

MEMORANDUM FOR DIRECTORS OF PERSONNEL AND EQUAL EMPLOYMENT OPPORTUNITY

FROM: LEONARD R. KLEIN
ASSOCIATE DIRECTOR
FOR CAREER ENTRY

SUBJECT: NEW EMPLOYMENT BENEFITS FOR VETERANS

1. Presidential Support for Employing Veterans

The President, on March 8, 1991, directed Federal agencies to ensure that Federal civilian employment opportunities are made available to the greatest extent possible to veterans of Operation Desert Shield/Storm, particularly those who have become disabled as a result of their military service. To help Federal agencies carry out the President's mandate, this letter provides information about two major changes in the employment benefits available to veterans, (1) the Southwest Asia Service Medal, which entitles recipients to preference in Federal employment and retention, and (2) the new veterans' readjustment hiring authority.

2. Veterans' Preference for Gulf War Participants

a) To recognize the special sacrifices and outstanding performance of the Armed Forces, President Bush ordered the creation of the Southwest Asia Service Medal for active duty personnel who served in military operations in southwest Asia or in the surrounding contiguous waters or air space on or after August 2, 1990, and before a terminal date to be set by the Secretary of Defense (Executive Order 12754, March 12, 1991).

b) The military departments will publish specific eligibility criteria for awarding the medal. (Note that the National Defense Service Medal (NDSM), which was reinstated on February 21, 1991, by the Secretary of Defense, is not a campaign badge and, therefore, is not a basis for granting veterans' preference.)

c) Under civil service law (5 U.S.C. 2108), individuals who receive a campaign medal and meet the other eligibility requirements indicated below are eligible for veterans' preference in Federal employment. Thus, the more than half-

million members of our Armed Forces eligible for the Southwest Asia Service Medal--including many reservists--can claim veterans' preference. This is the largest number of service men and women to be covered since October 14, 1976, when peacetime veterans' preference ended.

d) To qualify for preference, recipients of the Southwest Asia Service Medal must have been honorably discharged and have served continuously for 24 months or the full period for which called or ordered to active duty. Reservists who are released before serving the total period originally called for, are considered to have met this requirement. In addition, no minimum service period is required for (1) veterans with compensable service-connected disabilities, or (2) those discharged or released for disabilities incurred or aggravated in the line of duty or for hardship or other reasons under 10 U.S.C. 1171 or 1173 (FPM Chapter 211).

3. Documenting Eligibility for Veterans' Preference of Employees

a) Proof of eligibility for preference generally is provided on each Certificate of Release or Discharge from Active Duty (Form DD 214) or other evidence issued by the military departments. Agencies should make sure that employees who return from active duty provide their personnel offices with copies of discharge papers or other military documents showing award of the Southwest Asia Service Medal. In some cases, the military records may not show the award of the medal at all, if, for example, the employee was discharged before the medal was authorized. The military department is responsible for notifying veterans who have separated of this medal award. Since not all returning reservists are eligible for this benefit, it is critical that personnel officials accurately determine which employees are eligible for veterans' preference and document their employment records to this effect.

b) Agencies should process an 883/Chg in Vet Pref action for each returning employee who is eligible for preference based on award of the Southwest Asia Service Medal. Agencies should cite CCM/FPM Ch 211 and ZJR/Operation Desert Shield as the authorities. The 883/Chg in Vet Pref action should be effective on the same date as the action documenting the employee's return to duty from LWOP or restoration after military separation. Both actions may be documented on the same SF 50, Notification of Personnel Action.

4. Determining Veterans' Preference Eligibility of Job Applicants

Establishing the eligibility of job applicants for veterans' preference is based on the same criteria specified in paragraphs 2 and 3 above. Some members of the Reserve and National Guard may have applied for civil service employment prior to being sent

to the Gulf. OPM area offices have been instructed to revise the examination ratings of such individuals who claim preference based on the award of the Southwest Asia Service Medal. Federal agencies with direct-hire and delegated examining authority should make a similar revision upon notification from applicants. Also, in any contact with applicants, agencies should remind those who are eligible to claim veterans' preference on their application for Federal civil service employment.

5. New Veterans' Readjustment Appointment (VRA) Authority

Section 9, attached, of P.L. 102-16, signed by the President on March 22, 1991, makes several important changes in the VRA authority listed below. The new law:

- Is effective March 23, 1991. Appointments may be made immediately on the basis of the eligibility criteria in the new law without waiting for implementing regulations. Previous VRA eligibility criteria must not be used.
- Raises the maximum entry grade level to GS 11, WG 11, or equivalent for all VRA eligibles.
- Eliminates the education limits on VRA eligibility. There is no longer any restriction on the number of years of education VRA eligibles may have.
- Changes the VRA eligibility of veterans who entered the Armed Forces on or before May 7, 1975, and continued serving after that date. Those veterans no longer qualify as post-Vietnam-era veterans, but must meet the definition of Vietnam-era veteran, to be eligible for VRA appointment. Vietnam-era veterans are eligible for VRA appointments only if they meet the general definition of "veteran" in 38 U.S.C. 2011 (i.e., they served on active duty for more than 180 days and were separated with other than a dishonorable discharge or were discharged because of a service-connected disability) and either (1) have a service-connected disability, or (2) served in Vietnam or another campaign of the Vietnam era for which a badge or medal is authorized.
- Changes the definition of post-Vietnam-era veterans from "veterans who served on active duty after May 7, 1975" to "veterans who first became a member of the Armed Forces after May 7, 1975." All post-Vietnam-era veterans are eligible for VRA appointments provided they served on active duty for more than 180 days and were separated with other than a dishonorable discharge or were discharged because of a service-connected disability (38 U.S.C. 2011).
- Changes the period of appointment eligibility. Disabled veterans who are 30 percent or more disabled have no time limit on their VRA eligibility. A Vietnam-era veteran is

eligible for a VRA appointment during the period ending 10 years after the date of the veteran's last discharge or release from active duty or until December 31, 1993-- whichever is later. A post-Vietnam-era veteran is eligible for a VRA appointment within the 10 year period after the veteran's last discharge or release from active duty or December 17, 1999--whichever is later.

- Removes the December 31, 1993, expiration date from the VRA statute, thereby making the VRA authority permanent.

- Provides preference for disabled veterans over other veterans in appointments.

6. Selection Process for VRA Appointments

5 CFR Part 302 selection procedures must be followed in making VRA appointments. This assures compliance with statutory requirements that preference be provided for both disabled preference eligibles and nondisabled preference eligibles over VRA candidates who are not eligible for veterans' preference (see FPM Chapter 213).

7. Documenting VRA Appointments

Other major provisions (length of appointment, training, nature of action, and temporary appointment based on VRA eligibility) have not changed. Agencies should use the same appointing authority shown in interim regulation 5 CFR 307.103 (see FPM Bulletin 307-26, dated April 30, 1990) following the instructions in FPM Supplement 296-33, subchapter 11. Until final regulations are issued, cite in the Remarks section of the SF 50, Notification of Personnel Action, "VRA Program revised by P.L. 102-16, March 22, 1991." OPM will be issuing regulations as well as revised instructions in FPM Chapters 307 and 316 to reflect the new requirements of the law.

8. OPM and Agency Support for All Veterans

a) While immediate attention is focused on the preference eligibles who served in Operation Desert Shield/Storm, we should not lose sight of the needs and entitlements of veterans from earlier eras, especially those who served during the Vietnam era or those who were disabled as a result of a service-connected disability. These individuals also left their regular civilian employment to join in a national military effort; their lives and the lives of their families were greatly disrupted. In recognition of the sacrifices made by members of the Armed Forces, it is essential that Federal agencies as employers take extra steps to help these individuals.

b) To assist all veterans--those who are disabled, those from Operation Desert Shield/Storm, including those eligible for VRA, and those who served in earlier conflicts--OPM has designated a staff member in each area office and the Washington

Area Service Center as a contact point for inquiries from and about veterans. A one-page fact sheet for VRA applicants, which includes a list of these contacts, is attached. OPM is pledged to provide full support to veterans. We urge Federal agencies to give every possible employment consideration to the dedicated and talented men and women of the Armed Forces as they return to civilian life.

Attachments

Veterans Readjustment Appointments

Expanded Job Opportunities in the Federal Service

NEW--FOR VETERANS

Public Law 102-16, effective March 23, 1991, makes it even easier for Federal agencies to hire Armed Forces veterans who served during and after the Vietnam era.

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★ Who is eligible for a VRA appointment?

Veterans who served more than 180 days active duty, any part of which occurred during the Vietnam era (August 5, 1964 to May 7, 1975), and have other than a dishonorable discharge, are eligible if they have (1) a service-connected disability or (2) a campaign badge (for example, the Vietnam Service Medal).

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The 180-day service requirement does not apply to veterans discharged from active duty for service-connected disability.

★ How long are veterans eligible for VRA appointments after they leave the service?

Vietnam-era veterans qualify for a VRA appointment until 10 years after discharge or until December 31, 1993, whichever date is later.

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Eligible veterans with a service-connected disability of 30% or more can be hired without time limit.

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(over)

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1900 E Street, NW

Washington, DC 20006

CE-100

June 1991

NARA-18-1003-A-000636

U.S. Office of Personnel Management Area Office Veterans Representatives for Employment Inquiries

Alabama

Lee Hockenberry
Huntsville Area Office
(205) 544-5130

Alaska

John Busted
Anchorage Area Office
(907) 271-3617

Arizona

Jack Mallin
Phoenix Area Office
(602) 640-5809

Arkansas

(See Oklahoma)

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John Andre
Los Angeles Area Office
(818) 575-6507

Susan Fong Young
Sacramento Area Office
(916) 551-3275

Mark Gunby
San Francisco Area Office
(415) 744-7216

Colorado

Doris Veden
Denver Area Office
(303) 969-7036

Connecticut

A.J. Dubois
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Delaware

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(202) 606-1848

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(407) 648-6150

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(404) 331-4588

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Charles Tamabayashi
Honolulu Area Office
(808) 541-2790

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Illinois

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Chicago Area Office
(312) 353-8799

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Paul McMahon
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Richard Krueger
Kansas City Area Office
(816) 426-5705

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Portsmouth Area Office
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Don Hodge
Newark Area Office
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Rosa Benavidez
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Larry Burkett
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Raleigh Area Office
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West Virginia

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(See Illinois)

Wyoming

(See Colorado)

Section 9 of Public Law 102-16 amended 38 U.S.C. 2014, the authority for veterans' readjustment appointments. Here is the text of section 2014, as amended. The language added by the new law is underlined.

Section 2014. Employment within the Federal Government

(a)(1) The United States has an obligation to assist veterans of the Armed Forces in readjusting to civilian life since veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers. The Federal Government is also continuously concerned with building an effective work force, and veterans constitute a major recruiting source. It is, therefore, the policy of the United States and the purpose of this section to promote the maximum of employment and job advancement opportunities within the Federal Government for disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era who are qualified for such employment and advancement.

(2) For the purposes of this section, the term "agency" means a department, agency, or instrumentality in the executive branch.

(b)(1) To further the policy stated in subsection (a) of this section, veterans referred to in paragraph (2) of this subsection shall be eligible, in accordance with regulations which the Office of Personnel Management shall prescribe, for veterans readjustment appointments, and for subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970) except that-

(A) such an appointment may be made up to and including the level GS-11 or its equivalent;

(B) a veteran shall be eligible for such an appointment without regard to the number of years of education completed by such veteran;

(C) a veteran who is entitled to disability compensation under the laws administered by the Department of Veterans Affairs or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be given a preference for such an appointment over other veterans;

(D) a veteran receiving such an appointment shall-

(i) in the case of a veteran with less than 15 years of education, receive training or education; and

(ii) upon successful completion of the prescribed probationary period, acquire a competitive status; and:

(E) a veteran given an appointment under the authority of this subsection whose employment under the appointment is terminated within one year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment.

(2) This subsection applies to-

(A) a veteran of the Vietnam era who-

(i) has a service-connected disability rating of 10 percent or more

(ii) during such era, served on active duty in the Armed Forces in a campaign or expedition for which a campaign badge has been authorized; and

(B) veterans who first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces after May 7, 1975, and were discharged or released from active duty under conditions other than dishonorable.

(3)(A) Except as provided in subparagraph (C) of this paragraph, a veteran of the Vietnam era may receive an appointment under this section only during the period ending-

(i) 10 years after the date of the veteran's last discharge or release from active duty; or

(ii) December 31, 1993, whichever is later.

(B) Except as provided in subparagraph (C) of this paragraph, a veteran described in paragraph (2)(B) of this subsection may receive such an appointment only within the 10-year period following the later of-

(i) the date of the veteran's last discharge or release from active duty; or

(ii) December 18, 1989.

(C) The limitations of subparagraphs (A) and (B) of this paragraph shall not apply to a veteran who has a service-connected disability rated at 30 percent or more.

(D) For purposes of clause (i) of subparagraphs (A) and (B) of this paragraph, the last discharge or release from active duty shall not include any discharge or release from active duty of less than ninety days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force described in section 1411(a)(1)(A)(ii)(III) of this title or of an involuntary separation described in section 1418A(a)(1).



Veterans
Administration

MAY 16 1988

In Reply Refer To: 226B

Ms. Arlene Hudson
Coordinator - Veterans Employment
Department of Justice
NALC Bldg., 5th Fl. Annex
100 Ind. Ave., NW
Washington, DC 20530

Dear Ms. Hudson:

The VA has the ability to help you locate and hire qualified candidates for federal jobs. The VA Vocational Rehabilitation and Counseling Officers on the enclosed directory--in many cases--can match well-trained disabled veterans to your job openings and most of these veterans are eligible for special appointment authorities that make hiring quick and efficient.

Earlier this year the Honorable Constance Horner, director of the Office of Personnel Management, wrote to Federal Executive Boards across the country to remind them "of the Federal Government's policy to promote employment and job advancement opportunities for qualified disabled veterans." She noted that several special noncompetitive appointment authorities exist to allow federal agencies to meet the requirements of their Disabled Veterans Affirmative Action Programs (DVAAP). The most important are section 3112 of title 5, U.S. Code, which permits noncompetitive appointment of veterans with service-connected disabilities of 30 percent or more, and section 2014(b) of title 38, U.S. Code, the Veterans Readjustment Authority for Vietnam Era veterans. The mandate is there, the hiring authorities are in place; so the question becomes: Where does one find qualified disabled veterans?

Across the country approximately 30,000 disabled veterans are currently participating in the VA's vocational rehabilitation program. Some 3,500 have completed training and are now actively seeking employment. We can't fill every opening every time, but in our program each veteran follows an individualized rehabilitation plan, so you will find applicants trained for a wide variety of jobs from clerical positions to skilled labor and from technical positions such as computer systems operators to white-collar management.

In addition to the noncompetitive appointment authorities cited above, we also urge you to consider use of our "unpaid work experience" program. The VA is able to place vocational

VETERANS PREFERENCE AND SPECIAL APPOINTMENT PROGRAMS

IN THE FEDERAL GOVERNMENT

Veterans Administration

Vocational Rehabilitation and Counseling .

VETERANS' PREFERENCE AND SPECIAL APPOINTMENT PROGRAMS

1. INTRODUCTION

a. This white paper describes the provisions which give special emphasis to the needs of disabled veterans in Federal employment. Implementing these provisions is a governmentwide responsibility. Nonetheless, the VA's Vocational Rehabilitation and Counseling Division (VR&C) has a special role to play because of its central mission; to assist disabled veterans in their efforts to overcome the effects of disabilities connected with their service in the armed forces of the United States. VR&C seeks to work closely with Federal Selective Placement Coordinators and other Federal officials to enhance job opportunities for disabled veterans and to assist other agencies in meeting their obligations.

2. VETERANS' PREFERENCE IN FEDERAL EMPLOYMENT

Special consideration is given to all qualified veterans seeking Federal employment. Veterans preference is intended to provide a uniform method of applying this consideration.

a. Five-point Preference. Five-point preference is given to all veterans who served on active duty in the armed forces of the United States provided they were discharged under honorable conditions and served under at least one of the following sets of circumstances:

who served on active duty in the armed forces at any time and who either has a service-connected disability (VA) or is receiving compensation, disability retirement benefits or pension under laws administered by the Veterans Administration, Army, Navy, Air Force, Marine Corps or Coast Guard. A veteran who has been awarded the Purple Heart for wounds received in action is considered to have a service-connected disability for this purpose.

c. Administration of Veterans Preference. Persons who meet the criteria for veterans preference are referred to as "veterans preference eligibles." Either five or ten points is added to the numerical ratings they achieve in open, competitive examinations for appointment to jobs in the Federal civil service. Currently, there is no objective test for entry-level professional and managerial openings in the Federal government. Tests do exist for entry-level (up to GS-4) clerical positions and some technical positions. In cases in which a test is used to rank applicants, veterans preference is applied in the traditional manner. Where no test is in use, OPM specialists subjectively rate the applicants according to established guidelines and attempt to add veterans preference points to augment the assessments they have arrived at. The extra points cause the names of veterans preference eligibles to stand higher on lists of persons eligible for appointment. If a ten-point preference eligible is included on a register of qualified applicants supplied by OPM to the agency appointing official, that official must justify in writing

4. NONCOMPETITIVE APPOINTMENTS FOR CERTAIN COMPENSABLY
DISABLED VETERANS

a. Thirty Percent Disabled. Under 5 U.S.C. 3112, a disabled veteran who has a compensable service-connected disability of 30 percent. Federal agency provided the veteran meets the job qualification standards. This appointment may lead to conversion to career of career-conditional employment. Many agencies find use of this special appointment authority to be an expeditious and effective way of meeting sudden and critical personnel shortages. A key point to not is the authority to convert from a temporary appointment to permanent status after a relatively brief period of temporary employment. Procedures for these appointments and conversion to permanent status are contained in FPM, chapter 316.

(1) Considerations of Federal Laws. This unpaid training or work experience may be authorized without regard to the compensation requirements of the Fair Labor Standards Act or the prohibition in 31 U.S.C. 665(b) against Federal agencies' acceptance of voluntary services. Veterans in this training or work experience are considered Federal employees only for the employees' job-related disability protections provided under chapter 81 of title 5 U.S.C., but not for any other purposes of laws administered by OPM (Office of Personnel Management).

(2) Noncompetitive Appointment Following Training. OPM regulations provide that veterans trained in Federal agencies under a chapter 31 (VA voc-rehab) work experience or unpaid or minimally paid OJT may, on completion of training, be appointed noncompetitively to a position of the kind for which the training has qualified them. This training may lead directly to employment either in the training establishment or in another Federal agency. (38 CFR 21.299)

c. Determination as to Use of Unpaid Federal Agency Training.

The VR&C counseling psychologist and the VR&C vocational rehabilitation specialist will collaborate to prepare the determination as to the need for training on a nonpay or nominally paid basis in a Federal agency. This training may be all or part of a veteran's program of rehabilitation. This determination will be based on an analysis of the veteran's needs as indicated by his

the vocational rehabilitation specialists implementing on-job training for disabled veterans under chapter 31 authority are contained in FPM, chapter 315, appendix B.

Chapter 31 unpaid or nominally paid trainees may not replace or be used in lieu of regular employees for whom funds and a personnel ceiling have been provided.

e. Benefits and Services. Veterans in work experience on a nonpay or nominally paid basis receive the same VA benefits and services as other disabled veterans in training under chapter 31. Veterans will receive subsistence allowance from the VA at the institutional rate specified by law. Supplies are authorized in the same manner as for on-job trainees. Since the trainee does not receive a normal on-job training wage rate, he or she will receive the maximum allowable VA subsistence rate throughout the period of training. Work experience may be undertaken on a full-time, three-quarter-time, or half-time basis, with subsistence allowance commensurate with training time.

The benefits to the hiring agency may also be substantial. While the veteran cannot be used to circumvent funding and personnel ceilings, the agency can augment its workforce with the addition of a highly motivated disabled veteran. Moreover, it provides agencies with the opportunity to provide in-depth specialized training suited to their job requirements.

7. DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM

The Disabled Veterans Affirmative Action Program (DVAAP) was developed to promote recruitment, employment and job advancement opportunities within the Federal government for qualified disabled veterans. Agencies have primary responsibility for establishing and oversseing DVAAP and are required to develop a plan of specific action items which they will follow when implementing their program. The VA's vocational rehabilitation staff is available to assist agencies with the hiring of disabled veterans and may also offer job analysis and information on job modifications to accomodate disabled veterans.

U.S. DEPARTMENT OF JUSTICE
DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM (DVAAP)
ACCOMPLISHMENT REPORT

FISCAL YEAR 1991
OCTOBER 1, 1990 - SEPTEMBER 30, 1991

U.S. Department of Justice
AGENCY

10th Street and Constitution Avenue, NW
Washington, DC 20530
ADDRESS

92,105
NUMBER OF EMPLOYEES COVERED BY THIS PLAN

Arlene S. Hudson
Department Selective Placement Program Manager
NAME/TITLE OF PREPARER

Voice:
(202) 501-8745
TDD:
(202) 501-7908
TELEPHONE NUMBERS

Ted McBurrows
NAME AND SIGNATURE OF THE DIRECTOR
EQUAL EMPLOYMENT OPPORTUNITY STAFF

12/18/91
DATE

Harry H. Flickinger
NAME AND SIGNATURE OF THE
ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

12/26/91
DATE

William P. Barr
NAME AND SIGNATURE OF THE ATTORNEY GENERAL

1/17/92
DATE

**U.S. DEPARTMENT OF JUSTICE
DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM
ACCOMPLISHMENT REPORT**

**FISCAL YEAR 1991
OCTOBER 1, 1990 - SEPTEMBER 30, 1991**

The following methods were developed or expanded during fiscal year 1991 to improve the work force profile of disabled veterans with a special emphasis on veterans with a 30 percent or more disability.

A. RECRUITING METHODS

1. The Department has established an office which provides information and assistance to managers, supervisors, and employees regarding the acquisition and use of computer and electronic equipment to accommodate employees with disabilities. The office is entitled Information Resource Accommodations for the Disabled (IRAD).
2. The special guidance attached to the DVAAP Plan Update has proven to be a useful technical assistance for all. The guidance attached to the FY 1992 DVAAP Plan Update has some informational additions and/or modifications so as to enhance this very helpful package. For example, specific information regarding the use of the special appointing authorities has been developed and made a part of this package.
3. Maintained an aggressive recruitment program:
 - a. Continued liaison with the Department of Veterans Affairs (VA) (formerly the Veterans Administration) rehabilitation officers and VA hospitals. Provided information regarding the services of the VA to DVAAP officials.
 - b. Continued to provide to recruitment sources and DOJ managers and supervisors, the list of DOJ Selective Placement Program Managers for the bureaus for referral of applicants and for technical assistance.
 - c. Continued to promote the use of special hiring authorities so as to increase the employment of qualified veterans with 30 percent or more disabilities, on a more accelerated basis.
 - d. Continued outreach to solicit the applications of qualified disabled veterans for careers with the Department. Emphasis was placed on veterans

with disabilities of 30 percent or more. Methods of outreach included participation in job fairs, campus visits, national conferences of organizations with large or primary constituencies of disabled veterans e.g., The President's Committee on Employment of People with Disabilities, Blinded Veterans Association. In addition, we utilized professional organizations such as the American Blind Lawyers; advertisements; and networking with individuals possessing the various job skills relevant to the Department's careers who are willing to make referrals of job ready disabled veteran applicants; (i.e., Paralyzed Veterans of America; Disabled American Veterans; Veterans Employment Service of the U.S. Department of Labor; local veterans employment representatives; Disabled Veterans Outreach Program Specialists; the Office of the Assistant Secretary for Veterans Employment; U.S. Office of Personnel Management; Action; Vietnam Veterans Leadership Program; and the Department of Veterans Affairs).

- f. Continued to utilize the Department's order on access to computer support for employees with disabilities as a method by which managers, supervisors, and hiring officials may provide accommodation to disabled veteran employees. The IRAD office is the product of the DOJ Order.
- g. Provided information to managers, supervisors, and other hiring/DVAAP officials of this Department's newly established Information Resource Accommodation for the Disabled office. An office which provide assistance and information to managers, supervisors, and employees with disabilities regarding computer and other electronic equipment to accommodate handicapping conditions.
- h. Developed and provided training to managers, supervisors, DVAAP specialist and employees regarding the DVAAP.

**B. METHODS USED TO PROVIDE OR IMPROVE INTERNAL
ADVANCEMENT OPPORTUNITIES FOR DISABLED VETERANS**

- 1. Trained 59 Selective Placement Program (SPP) Managers for Persons and Veterans with Disabilities from the headquarters and field offices of the eight bureaus headquarters and field offices, most of whom were newly appointed to the SPP. The training seminar on selective placement was held in Dallas, Texas, on May 21, 1991, at the Marriott Suites Hotel, preceding the President's Committee on Employment of People with Disabilities (PCEPD), held May 22-24, 1991 in

Dallas. As a continuum of their programmatic, sensitivity and awareness training, the seminar participants attended the three-day conference of the PCEPD. The key speaker at the DOJ seminar was the Regional Director for the Dallas region.

2. The use of persons with disabilities in DOJ recruitment literature was expanded. For example, the Department's attorney and law graduate recruitment brochure "Legal Activities" for the 1991/1992 recruitment season, featured at least two Departmental attorneys with disabilities. The action-oriented photos depicted former Attorney General Dick Thornburgh's Special Assistant who is a wheelchair user, and an Assistant U.S. Attorney, who is blind, at work in their respective positions. The brochure is widely read and used as a recruitment tool by DOJ hiring officials.
3. Continued to assess accessibility to job sites, and accommodation provided, including safety/evacuation procedures, so that disabled veterans would not be adversely affected in their career progression by such impediments.
4. Developed and reviewed statistical data to ascertain whether or not disabled veterans were progressing in their careers with the Department. Data systems such as Human Resource Management Information Systems (HRMIS), Personnel Pay System (PERSPAY), Central Personnel Data Files (CPDF), and other special data runs containing statistics which focused on a specific area, were used to discern problems, progress, trends, training, promotions, and accessions/losses in personnel. Continued using the data to refine the DVAAP.

C. HOW THE ACTIVITIES OF MAJOR OPERATING COMPONENTS AND FIELD INSTALLATIONS WERE MONITORED, REVIEWED, AND EVALUATED

1. Continued to assess the accomplishments of components/field installations through reports submitted from on-site reviews by Selective Placement Program Managers/Coordinators, or other review teams also from accomplishment reports forwarded for inclusion in the annual DOJ DVAAP submission. The assessments were utilized to provide information regarding the needs of DVAAP and to identify any specific trends.
2. Continued to encourage feedback from disabled veteran constituents about their concerns and perspectives regarding the program for disabled veterans, so as to gain insights pertaining to problems or progress, and suggestions to improve the program.

3. Held a special meeting with bureau DVAAP officials to receive and assess programmatic concerns at the bureau level and to provide a forum for such officials to discuss progress, problems, and concerns and to receive on-the-spot guidance.

D. AGENCY PROGRESS IN IMPLEMENTING ITS AFFIRMATIVE ACTION PLAN DURING THE FISCAL YEAR

1. DVAAP officials, including SPP Managers, attended a briefing, sponsored by the Director, Equal Employment Opportunity Staff, on the development of DVAAP reports.
2. The DVAAP Plan Update for FY 1990 was distributed to officials with SPP responsibilities for implementation.
3. The number of disabled veterans within the Department's work force increased.

1,880 - FY 1991

1,836 - FY 1990

- 3a. The number of 30 percent or more disabled veterans increased.

324 - FY 1991

304 - FY 1990

The Department will continue to develop aggressive action items in its DVAAP Plan Updates to further the increase of disabled veterans into its work force. In addition, because the law enforcement positions comprise over a third of the Department's work force and such positions require rigid physical standards which severely disabled veterans usually cannot meet, Justice components with such positions will continue to be encouraged to recruit and hire severely disabled veterans for their non-law enforcement jobs.

- 3b. Disabled veterans continued to be represented within all occupational components of PATCO and within the pay groupings.

- 3c. Of the total disabled veterans work force of 1,880, 726 received promotions.¹

¹ FBI not included.

U.S. DEPARTMENT OF JUSTICE
DISABLED VETERANS AFFIRMATIVE ACTION PROGRAM
ACCOMPLISHMENT REPORT
STATUS OF DISABLED VETERANS IN THE JUSTICE WORK FORCE
AS OF SEPTEMBER 30, 1991

STATUS OF DISABLED VETERANS WITHIN THE DEPARTMENT OF JUSTICE

1. Disabled veterans continued to be employed within all of the occupational categories of PATCO and within the various pay groupings. A similar employment pattern exists for severely--30 percent or more--disabled veterans.
 - a. The employment of 30 percent or more disabled veterans continued to increase:

324 for FY 1991

304 for FY 1990
 - b. The employment of disabled veterans continued to increase:

1,880 for FY 1991

1,836 for FY 1990
2. Two other significant points regarding the status of disabled veterans at the Department during FY 1990 are:
 - a. Of the total work force of disabled veterans - 1,836 - 4,724 incidences of training occurred.²
 - b. Of the total disabled veterans work force of 1,880, 744 received promotions.

¹ FBI not included.

² FBI data unavailable for inclusion in the statistics presented regarding numbers of training incidences and promotions.

U.S. DEPARTMENT OF JUSTICE

**ON-BOARD EMPLOYMENT OF TOTAL,
VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES FOR PAY PERIOD
ENDING SEPTEMBER 30, 1991**

**HEADQUARTERS AND FIELD EMPLOYEES
(FBI EXCLUDED)**

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ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES

BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
HEADQUARTERS EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		\$	%	\$	%	\$	%	\$	%	\$	%	\$	%
ALL OCCUPATIONS	ALL EMPLOYEES	12540	100.0	1703	13.6	186	1.5	36	.3				
	MINORITIES	4579	100.0	427	9.3	48	1.0	9	.2				
	WOMEN	6783	100.0	102	1.5	9	.1	2					
PROFESSIONAL/ADMINISTRATIVE	ALL EMPLOYEES	8258	100.0	1437	17.4	163	2.0	32	.4				
	MINORITIES	1794	100.0	274	15.3	37	2.1	7	.4				
	WOMEN	3479	100.0	56	1.6	5	.1	2	.1				
GS & EQUIV. 5-12	ALL EMPLOYEES	2684	100.0	252	9.4	31	1.2	11	.4				
	MINORITIES	972	100.0	93	9.6	13	1.3	3	.3				
	WOMEN	1645	100.0	26	1.6	4	.2	2	.1				
GS & EQUIV. 13 +	ALL EMPLOYEES	4853	100.0	1082	22.3	123	2.5	20	.4				
	MINORITIES	734	100.0	174	23.7	23	3.1	3	.4				
	WOMEN	1648	100.0	29	1.8	1	.1						
TECHNICAL	ALL EMPLOYEES	1348	100.0	133	9.9	13	1.0	2	.1				
	MINORITIES	883	100.0	76	8.6	4	.5	1	.1				
	WOMEN	1071	100.0	21	2.0	3	.3						
GS & EQUIV. 1-4	ALL EMPLOYEES	3	100.0										
	MINORITIES												
	WOMEN	3	100.0										
GS & EQUIV. 5-12	ALL EMPLOYEES	1325	100.0	116	8.8	10	.8	1	.1				
	MINORITIES	879	100.0	72	8.2	4	.5	1	.1				
	WOMEN	1066	100.0	20	1.9	3	.3						
GS & EQUIV. 13 +	ALL EMPLOYEES	20	100.0	17	85.0	3	15.0	1	5.0				
	MINORITIES	4	100.0	4	100.0								
	WOMEN	2	100.0	1	50.0								
CLERICAL/OTHER WHITE-COLLAR	ALL EMPLOYEES	2576	100.0	72	2.8	5	.2	1					
	MINORITIES	1693	100.0	47	2.8	4	.2	1	.1				
	WOMEN	2057	100.0	25	1.2	1							
BLUE-COLLAR	ALL EMPLOYEES	105	100.0	33	31.4	2	1.9	1	1.0				
	MINORITIES	58	100.0	17	29.3	1	1.7						
	WOMEN	8	100.0										
WG 1-4	ALL EMPLOYEES	4	100.0	1	25.0								
	MINORITIES	4	100.0	1	25.0								
	WOMEN	1	100.0										

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ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES

BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
HEADQUARTERS EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
WG 5-8	ALL EMPLOYEES	35	100.0	11	31.4	1	2.9						
	MINORITIES	25	100.0	8	32.0	1	4.0						
	WOMEN	4	100.0										
WG 9 +	ALL EMPLOYEES	42	100.0	13	31.0	1	2.4	1	2.4				
	MINORITIES	13	100.0	5	38.5								
	WOMEN												
WL PAY PLAN	ALL EMPLOYEES	7	100.0										
	MINORITIES	5	100.0										
	WOMEN	1	100.0										
WS PAY PLAN	ALL EMPLOYEES	9	100.0	8	88.9								
	MINORITIES	3	100.0	3	100.0								
	WOMEN												
UNSPECIFIED OCCUPATIONS	ALL EMPLOYEES	253	100.0	28	11.1	3	1.2						
	MINORITIES	151	100.0	13	8.6	2	1.3						
	WOMEN	168	100.0										

ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES

BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
FIELD EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
ALL OCCUPATIONS	ALL EMPLOYEES	55702	100.0	12932	23.2	1568	2.8	288	.5				
	MINORITIES	16324	100.0	3811	23.3	515	3.2	99	.6				
	WOMEN	19561	100.0	524	2.7	76	.4	15	.1				
PROFESSIONAL/ADMINISTRATIVE	ALL EMPLOYEES	25157	100.0	6541	26.0	772	3.1	129	.5				
	MINORITIES	5661	100.0	1738	30.7	249	4.4	44	.8				
	WOMEN	7375	100.0	192	2.6	18	.2	3					
GS & EQUIV. 5-12	ALL EMPLOYEES	16002	100.0	4136	25.8	526	3.3	98	.6				
	MINORITIES	4477	100.0	1292	28.9	203	4.5	38	.8				
	WOMEN	5505	100.0	166	3.0	16	.3	3	.1				
GS & EQUIV. 13 +	ALL EMPLOYEES	5159	100.0	1998	38.7	226	4.4	30	.6				
	MINORITIES	857	100.0	398	46.4	44	5.1	6	.7				
	WOMEN	766	100.0	17	2.2	2	.3						
TECHNICAL	ALL EMPLOYEES	6685	100.0	1273	19.0	196	2.9	49	.7				
	MINORITIES	2406	100.0	489	20.3	80	3.3	21	.9				
	WOMEN	4265	100.0	125	2.9	17	.4	5	.1				
GS & EQUIV. 1-4	ALL EMPLOYEES	32	100.0	5	15.6	1	3.1	1	3.1				
	MINORITIES	10	100.0	1	10.0	1	10.0	1	10.0				
	WOMEN	21	100.0	3	14.3	1	4.8	1	4.8				
GS & EQUIV. 5-12	ALL EMPLOYEES	6642	100.0	1261	19.0	194	2.9	48	.7				
	MINORITIES	2392	100.0	487	20.4	79	3.3	20	.8				
	WOMEN	4244	100.0	122	2.9	16	.4	4	.1				
GS & EQUIV. 13 +	ALL EMPLOYEES	6	100.0	6	100.0	1	16.7						
	MINORITIES												
	WOMEN												
CLERICAL/OTHER WHITE-COLLAR	ALL EMPLOYEES	19937	100.0	3825	19.2	445	2.2	82	.4				
	MINORITIES	7321	100.0	1251	17.1	145	2.0	28	.4				
	WOMEN	7234	100.0	179	2.5	36	.5	5	.1				
BLUE-COLLAR	ALL EMPLOYEES	3170	100.0	1247	39.3	142	4.5	20	.6				
	MINORITIES	765	100.0	325	42.5	39	5.1	5	.7				
	WOMEN	206	100.0	15	7.3	2	1.0	1	.5				
WG 1-4	ALL EMPLOYEES	13	100.0	3	23.1								
	MINORITIES	6	100.0	1	16.7								
	WOMEN	1	100.0										

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*** DOJ ***
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ON-BOARD EMPLOYMENT OF TOTAL, VETERAN, AND DISABLED VETERAN EMPLOYEES
BY OCCUPATIONAL CATEGORIES AND SELECTED PAY GROUPINGS
DEPARTMENT OF JUSTICE
FIELD EMPLOYEES

OCCUPATIONAL CATEGORY		TOTAL ON-BOARD		ALL VETERANS		TOTAL DISABLED VETS		ALL 30% OR MORE DISABLED VETS		NON-COMPET APPTS OF 30% OR MORE DISABLED VETS		UNSPEC. VETERANS	
		#	%	#	%	#	%	#	%	#	%	#	%
WG 5-8	ALL EMPLOYEES	96	100.0	49	51.0	11	11.5	2	2.1				
	MINORITIES	48	100.0	22	45.8	6	12.5						
	WOMEN	11	100.0	2	18.2								
WG 9 +	ALL EMPLOYEES	150	100.0	101	67.3	19	12.7	4	2.7				
	MINORITIES	80	100.0	51	63.8	5	6.3	1	1.3				
	WOMEN												
HL PAY PLAN	ALL EMPLOYEES	119	100.0	29	24.4	1	.8						
	MINORITIES	38	100.0	14	36.8	1	2.6						
	WOMEN	21	100.0	1	4.8								
WS PAY PLAN	ALL EMPLOYEES	2788	100.0	1065	38.2	111	4.0	14	.5				
	MINORITIES	590	100.0	237	40.2	27	4.6	4	.7				
	WOMEN	173	100.0	12	6.9	2	1.2	1	.6				
UNSPECIFIED OCCUPATIONS	ALL EMPLOYEES	753	100.0	46	6.1	13	1.7	8	1.1				
	MINORITIES	171	100.0	8	4.7	2	1.2	1	.6				
	WOMEN	481	100.0	13	2.7	3	.6	1	.2				

U.S DEPARTMENT OF JUSTICE
EMPLOYMENT TOTALS, VETERANS, AND DISABLED VETERANS
BY PATCO AS OF SEPTEMBER 30, 1991
FEDERAL BUREAU OF INVESTIGATION

EMPLOYMENT OF TOTAL, VETERAN AND DISABLED VETERANS BY PATCO AS OF 10/03/91

	TOTAL	TOT VET	%	TOT	
ALL PERSONNEL	23867	3648	15.3	126	0.5
MINORITY	6147	409	6.7	14	0.2
FEMALE	10751	58	0.5		
PROF/ADMIN	13729	3166	23.1	112	0.8
MINORITY	2023	315	15.6	11	0.5
FEMALE	3249	30	0.9		
GRD 1 - 4	1				
MINORITY					
FEMALE	1				
GRD 5 - 12	5875	334	5.7	13	0.2
MINORITY	1288	60	4.7	1	0.1
FEMALE	2564	11	0.4		
GRD 13 AND UP	7680	2832	36.9	99	1.3
MINORITY	735	255	34.7	10	1.4
FEMALE	684	19	2.8		
TECHNICAL	3550	298	8.4	10	0.3
MINORITY	1312	51	3.9	2	0.2
FEMALE	2237	8	0.4		
GRD 1 - 4	20				
MINORITY	8				
FEMALE	14				
GRD 5 - 12	3432	257	7.5	9	0.3
MINORITY	1298	50	3.9	2	0.2
FEMALE	2218	8	0.4		
GRD 13 AND UP	98	41	41.8	1	1.0
MINORITY	6	1	16.7		
FEMALE	5				
CLK/OTH W/CLR	6087	100	1.6	2	
MINORITY	2617	35	1.3	1	
FEMALE	5155	19	0.4		
BLUE COLLAR	501	84	16.8	2	0.4
MINORITY	195	8	4.1		
FEMALE	110	1	0.9		
WG 1 - 4	134	2	1.5		
MINORITY	105				
FEMALE	86	1	1.2		
WG 5 - 8	130	8	6.2		
MINORITY	42	1	2.4		
FEMALE	8				
WG 9 AND UP	143	42	29.4	2	1.4
MINORITY	18	2	11.1		
FEMALE					
WL PAY PLAN	32	8	25.0		
MINORITY	17	1	5.9		
FEMALE	12				
WS PAY PLAN	36	18	50.0		
MINORITY	7	3	42.9		
FEMALE	3				

THERE ARE NO DISABLED VETERANS WITH 30% OR MORE DISABILITIES IN THE FBI.

ACTION MEMORANDUM

ATTORNEY GENERAL/DEPUTY ATTORNEY GENERAL

RECEIVED
DEPARTMENT OF JUSTICE



Subject
Affirmative Action Program Plan Update and
Accomplishments Report for Persons with
Disabilities, FY 92/91, respectively.

DEC 27 A9:46
Date

EXECUTIVE SECRET
DEC 26 1991

TO: William P. Barr
Attorney General

Harry H. Flickinger
FROM: Harry H. Flickinger
Assistant Attorney General
for Administration

Summary: The Affirmative Action Program Plan Update and
Accomplishments Report developed in accordance with the require-
ments of the Equal Employment Opportunity Commission Manage-
ment Directive 713, and Department of Justice policy.

Action Required: Signature of Attorney General

Due Date/Action

Forcing Event: EEOC requirements set 12/31/91 as date of submission to
that agency.

DOJ Coordination: Division/Component and Views (attach comments
if other than concurrence)

Concurrences:

	DAG	OLC	OPD	OLA	PAO	JMD	Marcy ODAG
Initials	<i>[Signature]</i>	N/A	N/A	N/A	N/A	N/A	<i>[Signature]</i>
Date	<i>1/7/92</i>						<i>1/7/92</i>

External Coordination: Agency and Views (attach comments if other
than concurrence).

Contact Point for
Additional Information: Arlene Hudson, 501-8745

U.S. DEPARTMENT OF JUSTICE
AFFIRMATIVE ACTION PROGRAM FOR
PERSONS WITH DISABILITIES

AFFIRMATIVE ACTION PROGRAM PLAN
UPDATE AND ACCOMPLISHMENT REPORT

Plan Update for the period October 1, 1991, through September 30, 1992.
Accomplishment Report for the period October 1, 1990 through
September 30, 1991.

U.S. DEPARTMENT OF JUSTICE
AGENCY

10TH AND CONSTITUTION AVENUE, N.W.
WASHINGTON, D.C. 20530
AGENCY ADDRESS


ALL EMPLOYEES OF THE DEPARTMENT OF JUSTICE
OVERALL TOTAL: 92,105 PERMANENT: 86,510 TEMPORARY: 5,595
NUMBER OF EMPLOYEES COVERED BY THIS PLAN

ARLENE HUDSON
Departmental Selective Placement Program Manager
NAME AND TITLE OF PERSON PREPARING PLAN UPDATE/REPORT


VOICE:
(202) 501-8745
TDD:
(202) 501-7908
TELEPHONE NUMBER


TED MCBURROWS
NAME AND SIGNATURE OF THE DIRECTOR
EQUAL EMPLOYMENT OPPORTUNITY STAFF

12/18/91
DATE


HARRY H. FLICKINGER
NAME AND SIGNATURE OF THE
ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION

12/26/91
DATE


WILLIAM P. BARR
NAME AND SIGNATURE OF THE ATTORNEY GENERAL

1/17/92
DATE

PLAN FOR SPECIAL RECRUITMENT PROGRAM

These new recruiting strategies will be utilized to supplement traditional recruiting strategies which will continue to be used throughout the Department.

NEW RECRUITING STRATEGIES

TARGET DATES

1. List a Telecommunications Device for the Deaf (TDD) number along with the "voice" telephone number for each contact listed on job vacancy announcements so that speech/hearing-impaired applicants/employees will have ready access to the employment information, as do others. May 30, 1992
 2. Hold three special in-house recruitment programs: (1) one featuring service providers who will inform Selective Placement Program Managers/Coordinators personnel, managers and supervisors, of the services and assistance rendered regarding employment of persons/veterans with disabilities; and (2) DOJ sponsored two job fairs. February
May and September 1992
 3. Participate in conferences and job fairs sponsored by organizations which provide qualified applicants with disabilities. For example, vocational rehabilitation organizations, The President's Committee on Employment of People with Disabilities (PCEPD), National Federation of the Blind, Disabled American Veterans, Office of Personnel Management, to cite several. December 1, 1991-September 30, 1992
- Provide to special recruitment officials employment information regarding appointing authorities for persons/veterans with disabilities, as well as awareness/sensitivity on how to interact with persons with disabilities, appropriately, concepts of accessibility and reasonable accommodation, behavioral and attitudinal concerns. February 28, 1992 and ongoing

4. Develop additional recruitment sources, providing the information to hiring officials at both headquarters and regional/field installations/offices, so as to enhance the recruitment of persons with disabilities. February 28, 1992
5. Sponsor a seminar for personnel specialists and assistants regarding recruitment and employment of persons/veterans with disabilities, including sensitivity to and awareness of disabilities; the promotion and use of the special appointing authorities for persons/veterans with disabilities which can often negate the need for status, rating and ranking, and possibly accelerate the employment process of qualified applicants with disabilities; and build confidence and comfortability in the interaction between personnel specialists/assistants and persons with disabilities. April/March 1992
6. Provide training to Selective Placement Program (SPP) Managers/Coordinators regarding legislation, rules, regulations and procedures relevant to the recruitment, employment, advancement, and retention of persons/veterans with disabilities. The training should encompass SPP Managers/Coordinators at all levels, from beginners to experienced SPP Managers/Coordinators. December 1, 1991-September 30, 1992
7. All bureauwide SPP Managers should be reachable by a TDD, which is preferably within the office where SPP Managers are located. June 1992

FACILITY ACCESSIBILITY

- A. List any unmet objectives for barrier removal that were established in previous submissions but have not been accomplished. Removal strategies are to be revised so that these objectives can be accomplished prior to the end of the fiscal year covered by this plan.

OBJECTIVE	ORIGINAL TARGET DATE	REVISED TARGET DATE	REVISED REMOVAL STRATEGIES
1. Curb cuts placed in drive-thru at JEH Building to make area accessible to employees/visitors.	8/91	5/92	As coordinated with Facilities Management Unit, FBI.
2. Purchase/installation of public pay telephones containing TDD's at JEH and Main Justice Buildings	6&9/91	5/92	As coordinated with tele-communications offices.
3. Research the feasibility of providing access to the fountain and area adjacent to it within the courtyard of the Main Justice Building, so that persons with mobility disabilities may fully participate in the DOJ programs and activities held there.	7/91	5/92	Initial Research performed. Additional information to be gathered for presentation to DOJ Disability Accessibility Task Force.

- B. List additional objectives for barrier removal during the period covered by this plan.

<u>OBJECTIVES</u>	<u>TARGET DATES</u>
1. Perform resurveys and provide recommendations regarding accessibility/accommodations. This will be conducted by the members of the DOJ Disability Accessibility Task Force, which will also prioritize and set funding levels.	Starting 1/92 completion 4/92

2. Provide to managers and supervisors information regarding equipment and techniques to be used in the evacuation of persons with disabilities during emergency situations.

April 1992

ALTERNATIVES TO PERSONNEL OR MANAGEMENT POLICIES, PRACTICES, OR PROCEDURES WHICH RESTRICT HIRING, PLACEMENT, AND ADVANCEMENT OF PERSONS WITH DISABILITIES

A. List barriers which were identified in previous submissions but for which alternatives have not yet been instituted:

<u>BARRIERS</u>	<u>ALTERNATIVES</u>	<u>PLANNED ACTIONS</u>	<u>CURRENT TARGET DATES</u>	<u>DATES INDICATED PREVIOUSLY</u>
-----------------	---------------------	------------------------	-----------------------------	-----------------------------------

A. No Unmet Objectives

B. List barriers not previously identified for which alternatives should be instituted:

<u>BARRIERS</u>	<u>ALTERNATIVES</u>	<u>PLANNED ACTIONS</u>	<u>TARGET DATES</u>
-----------------	---------------------	------------------------	---------------------

1. Provide to the bureauwide SPP Managers more time and/or resources so as to fully meet the needs and demands of the position.	Ongoing
---	---------

2. Promote the hiring of persons with qualified sign language ability or sign language interpreting skills into the work force, so as to meet the increased needs and requests for this service. Presently, we are experiencing the increased inability of such commercially available service providers to meet all requests from DOJ offices.	1/91 and ongoing
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3. Conduct a Departmentwide disability resurveying of all employees, to update statistical information relevant to the numbers of persons reporting disabilities employed by the Justice Department, as well as other information required to accurately complete EEO Reports for the Equal Employment Commission and the Office of Personnel Management. This resurvey may be done in conjunction with a resurvey relevant to other EEO-related employment information.	6/92
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**PART 2: REPORT OF ACCOMPLISHMENTS
FOR THE PERIOD OCTOBER 1, 1990, THROUGH SEPTEMBER 30, 1991
AFFIRMATIVE ACTION PROGRAM FOR
PERSONS WITH DISABILITIES**

STAFFING COMMITMENTS

Provide data indicating staffing commitments as of September 30, 1991. Include selective placement coordinators, handicapped program managers, and other key staff assigned to the affirmative action program for persons with disabilities. Do not include equal employment opportunity counselors and other personnel processing complaints of discrimination on the basis of disability.

A. Headquarters Personnel with Nationwide Responsibility:

- (1) Agencywide responsibility (Departmentwide, if applicable)

Number of Persons 1
Total staff years (Full-time equivalents allocated to the program) 65%

- (2) Responsibility for Major Operating Components (if none, indicate not applicable)

Number of Persons 9
Total staff years (Full-time equivalents allocated to the program) 6.0

B. All Other Personnel (not accounted for above) at Headquarters, in Component Agencies, or in Field Installations Responsible for Management and Coordination of the Program:

PERCENTAGE OF TIME ALLOCATED TO THE PROGRAM	INDICATE NUMBER IN EACH GROUP
1 - 5%	59
6 - 10%	87
11 - 25%	152
26 - 75%	1
76 - 100%	1
TOTAL:	300

C. Number of agency personnel offices with appointing authority 118

EEOC Form 440 (pg. 6) (10/87)

SUMMARY OF ACCOMPLISHMENTS IN AFFIRMATIVE ACTION PROGRAM FOR EMPLOYMENT OF PERSONS WITH DISABILITIES*

TOTAL PERMANENT (FT/PT) ONLY (FBI INCLUDED)

	PERMANENT WORK FORCE	PERSONS WITH DIS- ABILITIES	%	NO DISABILITY (04-05)	%	OTHER (01 AND NOT AVAILABLE)	%	PERSONS WITH TARGETED DISABILITIES	
Sept. 30, 1990	79,504	2,125	2.67	75,123	94.48	2,256	2.83	348	0.43
FY 199 OBJECTIVE	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Sept. 30, 1991	86,510	2,321	2.68	81,973	94.75	2,216	2.56	373	0.43

** Total Number of Accessions from
Oct. 1, 1990 to Sept. 30, 1991

15,126

** Total Number of Losses from
Oct. 1, 1990 to Sept. 30, 1991

7,788

SPECIAL RECRUITMENT PROGRAM -- ACCESSIONS AND LOSSES -- TARGETED DISABILITIES

TARGETED DISABILITIES REPORTED	DEAF (16,17)	BLIND 23,25	MISSING EXTREMITIES 28,32-38)	PARTIAL PARALYSIS (64-68)	COMPLETE PARALYSIS (71-78)	CONVULSIVE DISORDERS (82)	MENTALLY RETARDED (90)	MENTAL ILLNESS (91)	DISTORTION LIMB/SPINE (92)	TOTAL
On-Board Persons With Targeted Disabilities as of 9/30/90	45	63	33	50	30	70	19	32	6	348
Accessions from 10/1/90 - 9/30/91 **	3	14	4	8	4	16	0	8	0	57
Losses from Voluntary and Involuntary Separations from 10/1/90 - 9/30/91	4	4	1	7	1	6	2	3	1	29
On-Board Persons With Targeted Disabilities as of 9/30/91	45	68	36***	55***	30***	77***	19***	38***	5	373

EEOC Form 440 (pg. 7) *Numbers in parentheses refer to codes on Standard Form 256.

**For information on collection of applicant data see 46 FR 11285 (February 6, 1981).

***Change of Handicap Codes by 12 Persons.

SUMMARY OF ACCOMPLISHMENTS IN AFFIRMATIVE ACTION PROGRAM FOR EMPLOYMENT OF PERSONS WITH DISABILITIES*

TOTAL TEMPORARY WORK FORCE**

	TEMPORARY WORK FORCE (TEMP)	PERSONS WITH DIS- ABILITIES (TEMP)	%	NO DISABILITY (04-05) (TEMP)	%	OTHER (01 AND NOT AVAILABLE) (TEMP)	%	PERSONS WITH TARGETED DISABILITIES (TEMP)	
Sept. 30, 1990	5,609	129	2.29	5,408	94.91	51	0.90	21	0.37
Sept. 30, 1991	5,595	123	2.19	4,292	76.71	1,180	21.09	29	0.51

Total Number of Accessions (TEMP) from 1,640
Oct. 1, 1990 to Sept. 30, 1991**

INSTRUCTIONS: The data on this page are for temporary intermittent, and temporary nonappropriated fund employees.

Total Number of Losses (TEMP) from 1,984
Oct. 1, 1990, to Sept. 30, 1991**

SUMMARY OF ACCOMPLISHMENTS IN AFFIRMATIVE ACTION PROGRAM FOR EMPLOYMENT OF PERSONS WITH DISABILITIES* (cont.)

ACCESSIONS AND LOSSES (TEMPORARY) -- TARGETED DISABILITIES

TARGETED DISABILITIES REPORTED -- TEMPORARY EMPLOYEES ONLY	DEAF (16,17)	BLIND 23,25	MISSING EXTREMITIES 28,32-38)	PARTIAL PARALYSIS (64-68)	COMPLETE PARALYSIS (71-78)	CONVULSIVE DISORDERS (82)	MENTALLY RETARDED (90)	MENTAL ILLNESS (91)	DISTORTION LIMB/SPINE (92)	TOTAL
On-Board Persons With Targeted Disabilities as of 9/30/90	2	2	1	4	3	3	4	2	0	21
Accessions from 10/1/90 - 9/30/91	2	0	0	0	0	0	0	0	0	2
Losses from Voluntary and Involuntary Separations from 10/1/90 - 9/30/91	0	2	0	1	1	2	0	1	0	7
Conversions to Permanent Employ- ment 10/1/90 - 9/30/91**	2	1	0	1	1	0	2	1	0	8
On-Board Persons With Targeted Disabilities as of 9/30/91	3	5	3	2	3***	7***	4	2	0	29

EEOC Form 440 (pg. 7-A) *Numbers in parentheses refer to codes on Standard Form 256.

**Not applicable to the FBI.

***Change of Handicap Codes by 2 Persons

REPORT ON FACILITY ACCESSIBILITY

DESCRIBE YOUR AGENCY'S BARRIER REMOVAL ACTIVITY DURING THE REPORTING YEAR.

A. SUMMARIZE YOUR AGENCY'S BARRIER REMOVAL ACTIVITY.

1. The Department has improved access into the Great Hall of the Main Justice Building, and to its stage, while preserving the architectural and aesthetic integrity of this historically-designated building. The stage is now accessible by ramps on either side. Wheelchair and mobility access to the Great Hall is now provided via a system of ramps through an area adjacent to the Great Hall.
2. A large number of TDD's were purchased and subsequently placed in areas of general usage in the Main Justice Building, such as: the Main DOJ Library, the Credit Union, the DOJ Recreation Association, the travel office, the gymnasium, and the conference and briefing center, etc.
3. Public pay telephones containing TDD's which may be used by speech/hearing impaired persons and individuals without such disabilities, have been ordered for installation in the J. Edgar Hoover and Main Justice Buildings.
4. A Disability Accessibility Task Force has been established and is headed by the Deputy Assistant Attorney General, Personnel/Administration.
5. The Department promotes the periodic reassessment of accessibility to and throughout its various installations, to eliminate barriers which are new or have resurfaced.
6. The Department has established an Information Resource Accommodations for the Disabled (IRAD) office to provide information, assistance and education regarding computer and electronic equipment available for the use of employees with disabilities.
7. Many documents are prepared in alternate formats to accommodate print-impaired individuals, such as the attorney/law student/law graduate brochure "Legal Activities"; programs for special presentations and events; information relative to the Americans with Disabilities Act of 1990, etc.

B. IS GSA PROVIDING ASSISTANCE WITH BARRIER REMOVAL?

Where applicable, the GSA provides assistance with barrier removals.

C. DESCRIBE ANY DIFFICULTIES THAT HAVE BEEN ENCOUNTERED IN ATTEMPTING TO REMOVE BARRIERS THAT REMAIN IN AGENCY FACILITIES.

Although efforts to complete barrier removals are intended to be performed as quickly as possible, immediate resolution cannot always be accomplished due to the necessity to coordinate with various agencies and organizations.

D. DESCRIBE ACTIONS BEING TAKEN TO OVERCOME DIFFICULTIES DESCRIBED IN ITEM "C" ABOVE.

The Department will continue to effect speedier barrier removals through strengthened coordination and cooperation with all agencies and organizations involved.

PROMOTIONS AND CAREER DEVELOPMENT PROGRAMS (FBI INCLUDED)

OCTOBER 1, 1990, TO SEPTEMBER 30, 1991

**PERMANENT
(FT/PT) ONLY - (FBI INCLUDED)**

CATEGORY	ON-BOARD AS OF 9/30/91	PROMOTIONS		CAREER DEVELOPMENT (GRADES 5-12)		SENIOR LEVEL DEVELOPMENT PROGRAMS (GRADES 13-15)		SES DEVELOPMENT PROGRAMS	
		NUMBER	PERCENT	SLOTS FILLED	PERCENT	SLOTS FILLED	PERCENT	SLOTS FILLED	PERCENT
Total Work Force	86,510	23,929	27.6						
Not Identified (01)	2,216	281	12.6	DATA PRESENTLY NOT AVAILABLE DUE TO DOJ CONVERSION TO NATIONAL FINANCE CENTER, NEW ORLEANS, LA					
Not Available or Unspecified	0	0	N/A						
No Disability(04-05)	81,973	15,584	19.0						
Disabilities Reported (06, 13-94)	2,321	537	23.1						
Total Targeted Disabilities	373	83	22.2						

Percent = $\frac{\text{Number}}{\text{On-Board in Category}}$

Percent Development Programs = $\frac{\text{Slots in Category}}{\text{On-Board in Category}}$

Computations are to be based on actions during the reporting period. For promotions, use Standard Form 50, nature of action codes 702 and 542. For career development (grades 5 thru 12), count slots filled under formal upward mobility programs, apprenticeship programs, and other training and development programs, as well as appointments that move people noncompetitively through a series of promotions with some type of training in the process. Include both blue collar and white collar positions. For senior level career development (grades 13 thru 15) programs, computations are to be based on the number of individuals enrolled in formal executive and management development programs during the reporting period.

*Numbers in parentheses refer to codes on Standard Form 256.

EEOC Form 440 (pg. 13)

PAY-PERIOD-20-ENDING-09/21/91
PRINTED ON-11/22/91

U.S. DEPARTMENT OF JUSTICE
JUSTICE EMPLOYEE DATA SERVICE

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*** DOJ ***
*** SENSITIVE ***

ANALYSIS OF WORK FORCE: DOJ

(FBI EXCLUDED)

PERMANENT FT/PT

GENERAL SCHEDULE (PART: 1)

CATEGORY**	TOTAL		GS - 01		GS - 02		GS - 03		GS - 04		GS - 05		GS - 06		GS - 07		GS - 08		GS - 09	
	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%
NOT IDENTIFYD (01)	2114	100.0	0	.0	0	.0	2	.1	18	.9	39	1.8	50	2.4	163	7.7	120	5.7	168	7.9
UNSPECIFIED	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
NO HANDICP (04,05)	55938	100.0	38	.1	17	.0	204	.4	1371	2.5	3522	6.3	4164	7.4	9710	17.4	3249	5.8	7884	14.1
HC RPTD (06,13-94)	1389	100.0	1	.1	1	.1	22	1.6	116	8.4	126	9.1	127	9.1	280	20.2	76	5.5	158	11.4
DISABLED VETERANS	1562	100.0	0	.0	0	.0	1	.1	18	1.2	62	4.0	53	3.4	218	14.0	92	5.9	226	14.5
TRGTD DISABILITIES	238	100.0	0	.0	1	.4	12	5.0	37	15.5	37	15.5	30	12.6	36	15.1	9	3.8	16	6.7
DEAFNESS (16,17)	25	100.0	0	.0	0	.0	3	12.0	7	28.0	6	24.0	2	8.0	2	8.0	1	4.0	0	.0
BLINDNESS (23,25)	41	100.0	0	.0	0	.0	2	4.9	10	24.4	8	19.5	6	14.6	7	17.1	4	9.8	2	4.9
MS EXTR (28,32-38)	26	100.0	0	.0	0	.0	0	.0	0	.0	2	7.7	2	7.7	6	23.1	1	3.8	1	3.8
PRT PARLYZ (64-68)	37	100.0	0	.0	0	.0	1	2.7	4	10.8	7	18.9	4	10.8	4	10.8	0	.0	0	.0
CMP PARLYZ (71-78)	24	100.0	0	.0	0	.0	2	8.3	5	20.8	1	4.2	3	12.5	3	12.5	0	.0	4	16.7
CNVUL DSRDRS (82)	33	100.0	0	.0	0	.0	1	3.0	3	9.1	5	15.2	6	18.2	6	18.2	1	3.0	3	9.1
MNTL RETRCATN (90)	17	100.0	0	.0	1	5.9	2	11.8	6	35.3	2	11.8	3	17.6	2	11.8	0	.0	1	5.9
MNTL ILLNESS (91)	33	100.0	0	.0	0	.0	1	3.0	2	6.1	6	18.2	3	9.1	5	15.2	2	6.1	5	15.2
DSTRT OF LMBS (92)	2	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	1	50.0	1	50.0	0	.0	0	.0
TOTAL EMPLOYEES	59441	100.0	39	.1	18	.0	228	.4	1505	2.5	3687	6.2	4341	7.3	153	17.1	3445	5.8	8210	13.8

* PERCENTAGES ARE OF THE TOTAL EMPLOYEES PER COLUMN ACROSS

** NUMBERS IN PARENTHESES REFER TO CODES ON STANDARD FORM 256

PAY-PERIOD-20-ENDING-09/21/91
PRINTED ON-11/22/91

U.S. DEPARTMENT OF JUSTICE
JUSTICE EMPLOYEE DATA SERVICE

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*** DOJ ***
SENSITIVE

ANALYSIS OF WORK FORCE: DOJ

(FBI EXCLUDED)

PERMANENT FT/PT

GENERAL SCHEDULE (PART: 2)

CATEGORY**	GS - 10		GS - 11		GS - 12		GS - 13		GS - 14		GS - 15		GS - 16		GS - 17 - 18		SES		OTHER WC ***	
	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%	NO.	%
NOT IDENTIFYD (01)	20	.9	213	10.1	296	14.0	235	11.1	180	8.5	307	14.5	3	.1	0	.0	88	4.2	212	10.0
UNSPECIFIED	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
NO HANDICP (04,05)	277	.5	6586	11.8	5951	10.6	4541	8.1	2693	4.8	1922	3.4	6	.0	0	.0	253	.5	3550	6.3
HC RPTD (06,13-94)	14	1.0	120	8.6	108	7.8	103	7.4	58	4.2	58	4.2	1	.1	0	.0	3	.2	17	1.2
DISABLED VETERANS	12	.8	249	15.9	222	14.2	223	14.3	98	6.3	60	3.8	0	.0	0	.0	10	.6	18	1.2
TRGTD DISABILITIES	1	.4	18	7.6	14	5.9	12	5.0	6	2.5	8	3.4	0	.0	0	.0	0	.0	1	.4
DEAFNESS (16,17)	0	.0	2	8.0	1	4.0	0	.0	0	.0	1	4.0	0	.0	0	.0	0	.0	0	.0
BLINDNESS (23,25)	0	.0	1	2.4	0	.0	1	2.4	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MS EXTR (28,32-38)	0	.0	1	3.8	5	19.2	3	11.5	3	11.5	2	7.7	0	.0	0	.0	0	.0	0	.0
PRT PARLYZ (64-68)	0	.0	6	16.2	3	8.1	5	13.5	0	.0	2	5.4	0	.0	0	.0	0	.0	1	2.7
CMP PARLYZ (71-78)	0	.0	2	8.3	1	4.2	1	4.2	1	4.2	1	4.2	0	.0	0	.0	0	.0	0	.0
CNVUL DSRDRS (82)	1	3.0	2	6.1	2	6.1	1	3.0	0	.0	2	6.1	0	.0	0	.0	0	.0	0	.0
MNTL RETREATN (90)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
MNTL ILLNESS (91)	0	.0	4	12.1	2	6.1	1	3.0	2	6.1	0	.0	0	.0	0	.0	0	.0	0	.0
OSTRT OF LMBS (92)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
TOTAL EMPLOYEES	311	.5	6919	11.6	6355	10.7	4879	8.2	2931	4.9	2287	3.8	10	.0	0	.0	344	.6	3779	6.4

* PERCENTAGES ARE OF THE TOTAL EMPLOYEES PER COLUMN ACROSS

** NUMBERS IN PARENTHESES REFER TO CODES ON STANDARD FORM 256

*** INCLUDES UNSPECIFIED GS AND ALL OTHER WHITE COLLAR PAY PLANS

PERMANENT WORK FORCE

FBI

ANALYSIS OF WORK FORCE: WHITE COLLAR (GS, GM, SES, AND ALL OTHER)

DATA AS OF END OF REPORTING YEAR

CATEGORY *	GS-1	GS-2	GS-3	GS-4	GS-5	GS-6	GS-7	GS-8	GS-9	GS-10	GS-11	GS-12	GS/GM 13	GS/GM 14	GS/GM 15	SES	OTHER WC **	TOTAL WC
TOTAL WORK FORCE			238	688	2527	2359	2220	786	1547	1374	1958	1711	6063	1329	389	172	1	1001
NOT IDENTIFIED (01)				1	7	4	4		4	1	1	2	13	6	7	4		1001
NOT AVAILABLE OR UNSPECIFIED	N/A																	1001
NO HANDICAP (04-05)			228	645	2387	2246	2070	753	1478	1356	1893	1660	5928	1307	370	167	1	1001
HANDICAP REPORTED (06,13-94)			10	42	133	109	146	33	65	17	64	49	122	16	12	1		1001
TOTAL TARGETED DISABILITIES			4	8	33	20	23	8	10	1	10	3	5					1001
DEAFNESS (16,17)			2	2	7	3	4				2							1001
BLINDNESS (23,25)			1	3	6	6	3		4	1	2							1001
MISSING EXTREMI- TIES (28,32-38)					1	1	3	2	1				1					1001
PARTIAL PARALYSIS (64-68)					4	1	1	3	2		3		1					1001
COMPLETE PARALYSIS (71-78)				1					2		2	1						1001
CONVULSIVE DISORDERS (82)			1	2	12	8	11	2				2	3					1001
MENTAL RETARDATION (90)																		1001
MENTAL ILLNESS (91)					3	1		1										1001
DISTORTION OF NECK/SPINE (92)							1		1			1						1001

OC FORM 440 (pg. 8) (10/87)

* NUMBERS IN PARENTHESES REFER TO CODES ON STANDARD FORM 256
** INCLUDES UNSPECIFIED GS AND ALL OTHER WHITE COLLAR PAY PLANS

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PRINTED ON-11/22/91

U.S. DEPARTMENT OF JUSTICE
JUSTICE EMPLOYEE DATA SERVICE

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*** DOJ ***
*** SENSITIVE ***

ANALYSIS OF WORK FORCE: DOJ

(FBI EXCLUDED)

PERMANENT FT/PT

WAGE GRADE (PART: 1)

CATEGORY**	TOTAL NO.	X*	WD - NO. 01	WG %	WD - NO. 02	WG %	WD - NO. 03	WG %	WD - NO. 04	WG %	WD - NO. 05	WG %	WD - NO. 06	WG %	WD - NO. 07	WG %	WD - NO. 08	WG %
NOT IDENTIFYD (01)	45	100.0	0	.0	0	.0	5	11.1	0	.0	5	11.1	3	6.7	12	26.7	11	24.4
UNSPECIFIED	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
NO HANDICP (04,05)	3070	100.0	0	.0	2	.1	211	6.9	46	1.5	263	8.6	103	3.4	457	14.9	1416	46.1
HC RPTD (06,13-94)	91	100.0	0	.0	0	.0	9	9.9	2	2.2	3	3.3	3	3.3	18	19.8	37	40.7
DISABLED VETERANS	143	100.0	0	.0	0	.0	6	4.2	4	2.8	8	5.6	6	4.2	28	19.6	48	33.6
TRGTD DISABILITIES	7	100.0	0	.0	0	.0	2	28.6	1	14.3	0	.0	0	.0	2	28.6	2	28.6
DEAFNESS (16,17)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
BLINDNESS (23,25)	1	100.0	0	.0	0	.0	1	100.0	0	.0	0	.0	0	.0	0	.0	0	.0
MS EXTR (28,32-38)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
PRT PARLYZ (64-68)	2	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	1	50.0	1	50.0
CMP PARLYZ (71-78)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
CNVUL DSRDRS (82)	2	100.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	1	50.0	1	50.0
MNTL RETRCATN (90)	2	100.0	0	.0	0	.0	1	50.0	1	50.0	0	.0	0	.0	0	.0	0	.0
MNTL ILLNESS (91)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
DSTRT OF LMBS (92)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
TOTAL EMPLOYEES	3206	100.0	0	.0	2	.1	225	7.0	48	1.5	271	8.5	109	3.4	487	15.2	1464	45.7

* PERCENTAGES ARE OF THE TOTAL EMPLOYEES PER COLUMN ACROSS

** NUMBERS IN PARENTHESES REFER TO CODES ON STANDARD FORM 256

PAY-PERIOD-20-ENDING-09/21/91
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*** DOJ ***
*** SENSITIVE ***

ANALYSIS OF WORK FORCE: DOJ

(FBI EXCLUDED)

PERMANENT FT/PT

WAGE GRADE (PART: 2)

CATEGORY**	NO.	WD - WG 09 %	NO.	WD - WG 10 %	NO.	WD - WG 11 %	NO.	WD - WG 12 %	NO.	WD - WG 13 %	NO.	WD - WG 14 %	NO.	WD - WG 15 %	OTHER BC ***
NOT IDENTIFYD (01)	2	4.4	7	15.6	0	.0	0	.0	0	.0	0	.0	0	.0	0
UNSPECIFIED	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0
NO HANDICP (04,05)	234	7.6	208	6.8	33	1.1	16	.5	29	.9	52	1.7	0	.0	0
HC RPTD (06,13-94)	7	7.7	6	6.6	2	2.2	1	1.1	1	1.1	2	2.2	0	.0	0
DISABLED VETERANS	8	5.6	23	16.1	4	2.8	1	.7	3	2.1	4	2.8	0	.0	0
TRGTD DISABILITIES	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0
DEAFNESS (16,17)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0
BLINDNESS (23,25)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0
MS EXTR (28,32-38)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0
PRT PARLYZ (64-68)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0
CMP PARLYZ (71-78)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0
CNVUL DSRORS (82)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0
MNTL RETREATN (90)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0
MNTL ILLNESS (91)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0
DSTRT OF LMBS (92)	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0
TOTAL EMPLOYEES	243	7.6	221	6.9	35	1.1	17	.5	30	.9	54	1.7	0	.0	0

* PERCENTAGES ARE OF THE TOTAL EMPLOYEES PER COLUMN ACROSS.

** NUMBERS IN PARENTHESES REFER TO CODES ON STANDARD FORM 256

*** INCLUDES WL/WW/WS AND ALL OTHER BLUE COLLAR PAY PLANS.

PERMANENT WORK FORCE

FBI

ANALYSIS OF WORK FORCE: FEDERAL WAGE SYSTEM

DATA AS OF END OF REPORTING YEAR

CATEGORY *	WD/WG 1	WD/WG 2	WD/WG 3	WD/WG 4	WD/WG 5	WD/WG 6	WD/WG 7	WD/WG 8	WD/WG 9	WD/WG 10	WD/WG 11	WD/WG 12	WD/WG 13	WD/WG 14	WD/WG 15	OTHER BC **	TOTAL BC
TOTAL WORK FORCE	14	105	10	5	34	30	21	44	33	99	11		1			94	1001
NOT IDENTIFIED (01)		1						1								1	1001
NOT AVAILABLE OR UNSPECIFIED	N / A																1001
NO HANDICAP (04-05)	14	99	10	5	30	29	21	41	32	97	11		1			86	1001
HANDICAP REPORTED (06,13-94)		5			4	1		2	1	2						7	1001
TOTAL TARGETED DISABILITIES					1				1								1001
DEAFNESS (16,17)																	1001
BLINDNESS (23,25)																	1001
MISSING EXTREMI- TIES (28,32-38)																1	1001
PARTIAL PARALYSIS (64-68)									1								1001
COMPLETE PARALYSIS (71-78)																	1001
CONVULSIVE DISORDERS (82)					1												1001
MENTAL RETARDATION (90)																	1001
MENTAL ILLNESS (91)																	1001
DISTORTION OF NECK/SPINE (92)																	1001

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* NUMBERS IN PARENTHESES REFER TO CODES ON STANDARD FORM 256

** INCLUDES WL/WN/WS AND ALL OTHER BLUE COLLAR PAY PLANS

NOTE: PERCENTAGES ARE TO BE CALCULATED ON THE BASIS OF TOTAL EMPLOYEES IN EACH OF THE CATEGORIES LISTED IN THE COLUMN ON THE LEFT.

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PAY-PERIOD-20-ENDING-09/21/91
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*** DOJ ***
*** SENSITIVE ***

ANALYSIS OF WORK FORCE: DOJ

(FBI EXCLUDED)

PERMANENT FT/PT

TYPES OF OCCUPATIONS

CATEGORY**	TOTAL NO.	%	PROF NO.	%	ADMIN NO.	%	TECH NO.	%	CLER NO.	%	OTHER WHITE COLLAR NO.	%	SUPV BLUE COLLAR NO.	%	LEADER BLUE COLLAR NO.	%	NONSUPV BLUE COLLAR NO.	%
NOT IDENTIFYD (01)	2159	100.0	578	26.8	879	40.7	247	11.4	183	8.5	227	10.5	22	1.0	4	.2	19	.9
UNSPECIFIED	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0	0	.0
NO HANDICP (04,05)	59098	100.0	8345	14.1	660	35.0	7354	12.5	6974	11.8	2605	21.4	2684	4.5	117	.2	269	.5
HC RPTD (06,13-94)	1480	100.0	160	10.8	413	27.9	260	17.6	308	20.8	248	16.8	77	5.2	4	.3	10	.7
DISABLED VETERANS	1705	100.0	93	5.5	815	47.8	208	12.2	65	3.8	381	22.3	110	6.5	1	.1	32	1.9
TRGTD DISABILITIES	245	100.0	21	8.6	45	18.4	53	21.6	99	40.4	20	8.2	5	2.0	0	.0	2	.8
DEAFNESS (16,17)	25	100.0	2	8.0	4	16.0	5	20.0	14	56.0	0	.0	0	.0	0	.0	0	.0
BLINDNESS (23,25)	42	100.0	2	4.8	1	2.4	8	19.0	24	57.1	6	14.3	1	2.4	0	.0	0	.0
MS EXTR (29,32-38)	26	100.0	5	19.2	9	34.6	4	15.4	4	15.4	4	15.4	0	.0	0	.0	0	.0
PRT PARLYZ (64-68)	39	100.0	4	10.3	14	35.9	6	15.4	11	28.2	2	5.1	2	5.1	0	.0	0	.0
CMP PARLYZ (71-73)	24	100.0	2	8.3	6	25.0	8	33.3	8	33.3	0	.0	0	.0	0	.0	0	.0
CNVUL DSRERS (82)	35	100.0	4	11.4	5	14.3	8	22.9	11	31.4	5	14.3	2	5.7	0	.0	0	.0
MNTL RETREATN (90)	19	100.0	0	.0	1	5.3	4	21.1	12	63.2	0	.0	0	.0	0	.0	2	10.5
MNTL ILLNESS (91)	33	100.0	2	6.1	5	15.2	9	27.3	14	42.4	3	9.1	0	.0	0	.0	0	.0
DSTRT OF LMBS (92)	2	100.0	0	.0	0	.0	1	50.0	1	50.0	0	.0	0	.0	0	.0	0	.0
TOTAL EMPLOYEES	62647	100.0	9083	14.5	1952	35.0	7861	12.5	7465	11.9	3080	20.9	2783	4.4	125	.2	298	.5

* PERCENTAGES ARE OF THE TOTAL EMPLOYEES PER COLUMN ACROSS
** NUMBERS IN PARENTHESES REFER TO CODES ON STANDARD FORM 256

PERMANENT WORK FORCE

FBI

ANALYSIS OF WORK FORCE: TYPES OF OCCUPATIONS
PROFESSIONAL; ADMINISTRATIVE; TECHNICAL; CLERICAL; OTHER WHITE COLLAR;
SUPERVISORY, LEADER, AND NONSUPERVISORY BLUE COLLAR)

DATA AS OF END OF REPORTING YEAR

CATEGORY *	PROF	ADMIN	TECHNICAL	CLERICAL	OTHER WC	SUPV BC	LEADER BC	NONSUPV BC	TOTAL WF
TOTAL WORK FORCE	246	13,475	3,557	5,999	85	55	35	411	100%
NOT IDENTIFIED (01)	1	35	9	9		1		2	100%
NOT AVAILABLE OR UNSPECIFIED	N/A								100%
NO HANDICAP (04-05)	231	13,158	3,334	5,684	82	50	32	394	100%
HANDICAP REPORTED (06,13-94)	14	282	214	306	3	4	3	15	100%
TOTAL TARGETED DISABILITIES	2	29	34	59	1	1		2	100%
DEAFNESS (16,17)	1	2	5	12					100%
BLINDNESS (23,25)		6	7	13					100%
MISSING EXTREMI- TES (28,32-38)		4	3	2		1			100%
PARTIAL ANALYSIS (64-68)		4	4	6	1			1	100%
COMPLETE ANALYSIS (71-78)		5		1					100%
CONVULSIVE DISORDERS (82)	1	6	12	22				1	100%
MENTAL DETERIORATION (90)									100%
MENTAL ILLNESS (91)			3	2					100%
DEFORMATION OF NECK/SPINE (92)		2		1					100%

FORM 440 (pg. 10) (10/87)

AMERICAN
OVERSIGHT



OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

RECEIVED
DEPARTMENT OF JUSTICE

APR 29 1991

'91 MAY -6 12:33

EXECUTIVE SECRETARIAT

MEMORANDUM FOR HEADS OF DEPARTMENTS AND INDEPENDENT AGENCIES

FROM: CONSTANCE BERRY NEWMAN
DIRECTOR

SUBJECT: Request for Reports and Plan Certifications
for Disabled Veterans Affirmative Action Program
and Federal Equal Opportunity Recruitment Program
for FY '91

Accomplishment Reports and Plan
Certifications: DVAAP and FEORP
are due on or before 12-31-91
(#0258-OPM-AN/#0305-OPM-AN)

This memorandum calls your attention to the requirement for agencies to submit to the Office of Personnel Management (OPM) annual accomplishment reports and plan certifications for the Disabled Veterans Affirmative Action Program (DVAAP) and the Federal Equal Opportunity Recruitment Program (FEORP). We are combining the notification for reports/certifications to simplify agencies' planning.

To further assist agencies, OPM is implementing the following initiatives:

- This call for reports is being sent to agencies earlier-- around the middle of the fiscal year.
- The same submission due date for DVAAP and FEORP reports/certifications -- December 31.
- In May, agencies are being sent Central Personnel Data File (CPDF) information on their veterans' employment for an entire fiscal year (1990). The data will include a new Table 1, which is an executive summary of the agency's veterans' data.
- At the end of the fiscal year, agencies will be sent a followup memorandum requesting that reports/certifications be at OPM on or before the new due date.

- Agencies' DVAAP and FEORP submissions will be reviewed, analyzed, and responded to by an OPM agency account manager who is available for advice and technical assistance on both programs. The account managers have already contacted the individual agency program managers.

These initiatives are designed to assist agencies in planning and coordinating submission of these reports, taking into consideration other reporting requirements.

Agencies' separate accomplishment reports for DVAAP and FEORP should indicate progress on the goals and objectives set forth in their FY '91 plans. Agency data sent to the CPDF is not required to be included in the accomplishment reports. OPM will access agencies' data directly from the CPDF. The reports and plan certifications are to be submitted to:

U.S. Office of Personnel Management
Office of Affirmative Recruiting and Employment
Recruiting Programs Division, Room 6355
1900 E Street, NW.
Washington, DC 20415

DVAAP and FEORP submissions are due to OPM on or before 12-31-91

We appreciate your cooperation. If you or your staff have any questions, please do not hesitate to contact your account manager or Priscilla Levinson on (202) 606-0870.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: NEWMAN, CONSTANCE BERRY, DIRECTOR, OPM
To: AG. ODD: NONE
Date Received: 08-21-91 Date Due: NONE Control #: X91082215345
Subject & Date

08-19-91 LETTER, IN RESPONSE TO THE DAG'S RECENT REQUEST,
ADVISING THAT EFFECTIVE UPON RECEIPT OF THIS LETTER, DOJ MAY
AUTHORIZE PAYMENT OF RECRUITMENT AND RELOCATION BONUSES AND
RETENTION ALLOWANCES UNDER 5 U.S.C. 5753 AND 5754 TO
EMPLOYEES WHOSE PAY IS ADMINISTRATIVELY DETERMINED UNDER
SECTIONS 548 AND 587 OF TITLE 28, U.S. CODE. REGARDING
DOJ'S REQUEST FOR AUTHORITY TO PAY INTERIM GEOGRAPHIC
ADJUSTMENTS UNDER SECTION 302 OF THE FEDERAL EMPLOYEES **

Referred To:	Date:	Referred To:	Date:	
(1) JMD;FLICKINGER	08-22-91	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: JMD		Date Released:		PAB

Remarks

** PAY COMPARABILITY ACT OF 1990 (FEPCA) TO SUCH EMPLOYEES,
OPM ADVISES THAT IT DOES NOT HAVE AUTHORITY OVER THIS
MATTER. UNDER SECTION 302(c)(1)(D), THIS REQUEST SHOULD BE
DIRECTED TO THE PRESIDENT.
SEE E.S. 91052309531 CONTROL SHEET & PREV. CORRES. ATTACHED
INFO CC: OAG, OAG (SCHALL), DAG.
(1) FOR APPROPRIATE HANDLING.

Other Remarks:

08-23-91: OPD/JONES REQUESTED COPY. (PAB)

KMM 8/22/91

FILE: OFFICE OF PERSONNEL MANAGEMENT (OPM)
J910822 3424

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

19 August 91



OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

RECEIVED
DEPARTMENT OF JUSTICE

August 19, 1991

'91 AUG 21 P4:16

EXECUTIVE SECRETARIAT

Honorable William P. Barr
Acting Attorney General
U.S. Department of Justice
Washington, DC 20530

Dear Mr. Barr:

Thank you for your recent letter requesting authority to make certain payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA) to employees whose pay is administratively determined under sections 548 and 587 of title 28, United States Code.

I am pleased to inform you that effective upon receipt of this letter, the Department of Justice may authorize payment of recruitment and relocation bonuses and retention allowances under 5 U.S.C. 5753 and 5754 to employees whose pay is administratively determined under sections 548 and 587 of title 28, United States Code. Bonuses and allowances under this authority must be paid in accordance with the pertinent statutory and regulatory requirements and under the terms of the agency's written plans for making these payments.

With regard to your request for authority to pay interim geographic adjustments under section 302 of FEPCA to employees whose pay is administratively determined under sections 548 and 587 of title 28, United States Code, the Office of Personnel Management does not have authority over this matter. Under section 302(c)(1)(D), the Department's request for authority to pay interim geographic adjustments to such employees should be directed to the President.

I hope that these additional authorities will enhance the Department's continuing efforts to recruit and retain high quality employees.

Sincerely,

Constance Berry Newman
Director



Washington, D.C. 20530

Honorable Constance Berry Newman
Director
Office of Personnel Management
Washington, D.C. 20415

Dear Mrs. Newman:

This is to request Presidential approval under sections 101, 208, and 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) to authorize the U.S. Department of Justice to pay Recruitment and Relocation Bonuses, Retention Allowances and Locality-based Comparability Payments (including interim geographic adjustments) to United States Attorneys (USA), Assistant United States Attorneys (AUSA), United States Trustees (UST), and Assistant United States Trustees (AUST). Our reading of the pertinent sections of FEPCA indicates that these employees, whose pay is administratively determined pursuant to sections 548 and 587 of Title 28, United States Code, are not covered by these provisions.

While the Attorney General's authority to administratively set the annual rate of pay for these positions up to the rate for Executive Level IV could include amounts equivalent to those available under these FEPCA provisions, the Department would prefer to have the flexibility offered by these adjustments independent of the administrative increases to base pay under our Title 28 authority. There are several reasons which support this approach.

Current practice is to set ceilings on the pay for USA and UST positions below the EX-IV maximum. In addition, ceilings are established on AUSA and AUST pay based on the duties and responsibilities assigned to individual positions, with eligibility for annual increases in salary based on a combination of experience and performance. The pay treatment for these positions is made in consideration of the pay for the statutory pay schedules applicable to attorneys in the Department's litigating divisions. The authority to use the geographic pay and recruitment and retention bonuses and allowances, where warranted, would be cost-effective in terms of avoiding artificial increases and transferability of base pay determinations to match these flexibilities under the administrative pay system, eliminate base pay disparity with positions with comparable levels of difficulty in locations

and situations not requiring these incentives, and permit the Department to exceed the EX-IV cap in those rare instances where these payments were considered necessary to attract and retain employees with unique skills and qualifications.

The important functions performed by our United States Attorneys and Trustees in representing the Federal Government nationwide in both litigation and bankruptcy proceedings require skills and abilities which are highly sought by private sector law firms and the business community. The Department's ability to attract and retain the high caliber employees necessary to carry out these critical functions requires every available employment flexibility if we are to effectively compete with the private sector for their services. While it is recognized that we cannot hope to match the salaries offered by private sector law firms for similarly skilled attorneys in most jurisdictions, the ability to pay the additional incentives offered under the FEPCA provisions is viewed as likely to have a substantial impact on decisions to accept appointment or remain in the public service for additional periods of time.

As indicated above, while comparable levels of compensation could be provided through adjustments to base pay under our Title 28 authority, the Department would prefer to provide these incentives in the form of the more flexible geographic adjustments, bonuses, and allowances that will be available to most other Department employees. Importantly, the use of these flexibilities will be cost-effective and ensure that base pay for our employees subject to the administratively determined pay system is not set at levels which will exceed the base pay for employees with equivalent skills and experience.

Thank you for your consideration of this important matter. I look forward to receiving an early and favorable reply.

Sincerely,



William P. Barr
Deputy Attorney General

Memorandum

ATTORNEY GENERAL/DEPUTY ATTORNEY GENERAL ACTION

RECEIVED
DEPARTMENT OF JUSTICE



'91 MAY 23 P3:35

Subject

Date

Request for certain FEPCA flexibilities
for Executive Office for U.S. Attorneys
and Executive Office for U.S. Trustees

EXECUTIVE SECRETARIAT

MAY 22 1991

To

William P. Barr
Deputy Attorney General

Harry H. Flickinger
Harry H. Flickinger
Assistant Attorney General
for Administration

ACTION REQUIRED: Signature on letter to the Director, Office of Personnel Management requesting authority to pay certain bonuses, allowances and geographic pay to employees paid under administratively determined pay system.

Due Date: _____

Attorney General

☐

Deputy Attorney General

☒

PREVIOUS BACKGROUND PROVIDED: None

SUMMARY: The Federal Employees Pay Comparability Act of 1990 does not provide for the payment of recruitment and relocation bonuses, retention allowances and locality-based geographic payments to employees covered by administratively determined pay systems, but allows the heads of agencies to request such authority for specific groups of employees. This letter makes such a request for coverage of U.S. Attorneys, Assistant U.S. Attorneys, U.S. Trustees and Assistant U.S. Trustees.

COMMENTS: I recommend you sign the attached letter. In a memorandum dated May 9, 1991, the Executive Office for U.S. Attorneys asked that the Department request coverage for U.S. Attorneys and Assistant U.S. Attorneys. We have also had discussions with the Executive Office for U.S. Trustees on the same matter.

Concurrences: DAG AAG OLC OLP OLA PAO JMD

Initials

Date

	N/A	N/A	N/A	N/A	N/A	N/A					
	FOIA # 60048 (URTS 16444) DocId: 70106526 Page 99										NARA-18-1003-A-000689

See Reverse For Instruction

AMERICAN
OVERSIGHT

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: NEWMAN, CONSTANCE BERRY, DIRECTOR, OPM
To: AG. (THORNBURGH) ODD: 11-01-91
Date Received: 08-28-91 Date Due: 11-08-91 Control #: X91082815631
Subject & Date

08-26-91 LETTER REQUESTING THAT THE AG REVIEW STUDIES DONE BY OR FOR DOJ, DECIDING WHICH MIGHT BE RELEVANT TO THE THEME OF QUALITY SERVICE OR PRODUCTIVITY, AND THEN EXTRACT KEY INFORMATION TO SEND TO OPM. THE INFORMATION WILL BE USED BY OPM IN PREPARING A REPORT TO CONGRESS ON WAYS TO IMPROVE THE QUALITY OF GOVERNMENT SERVICES AS WELL AS THE PRODUCTIVITY OF THE FEDERAL WORKFORCE. ENCLOSURES A BRIEF STANDARDIZED RESPONSE FORMAT TO ASSIST THEM IN ANALYZING THE **

Referred To:	Date:	Referred To:	Date:	
(1) JMD;FLICKINGER	08-28-91	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: JMD		Date Released: 11-15-91		PAB

Remarks

** INFORMATION. REQUESTS THAT THE NAME AND PHONE NUMBER OF THE APPROPRIATE CONTACT PERSON IN DOJ BE FORWARDED TO DR. BUD DEMING. THEY ASK THAT DOJ SUPPLY THEM WITH ITS INPUT BY NOVEMBER 1, 1991.

CC INDICATED FOR JMD/SHOLLY
INFO CC: OAG, DAG

Other Remarks:

(1) RETURN THIS CONTROL SHEET WITH A COPY OF THE RESPONSE TO EXEC. SEC., ROOM 4400-AA.
11-01-91: DD EXT FROM 11-01-91 TO 11-08-81 PER TELEPHONE CALL FROM JMD/CAROL SHERIDAN TO OPM/BUD DEMING. (MAU)
11-15-91 JMD REPLIED BY LETTER DATED 11-14-91. (TJ)

KMM 8/28/91
FILE: OFFICE OF PERSONNEL MANAGEMENT (OPM)
J910828 3514

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

C/O 26 August 91



Washington, D.C. 20530

NOV 14 1991

Honorable Constance Berry Newman
Director
Office of Personnel Management
Washington, D.C. 20415


Dear Mrs. Newman:

In August, the Office of Personnel Management asked for help from the Department in preparing a report to Congress on ways to improve the quality of government services as well as the productivity of the Federal workforce. We are pleased to forward the Department's response to you.

Our submission contains summaries from a representative sample of management reviews and quality initiatives, conducted within the Department, which we believe meet the criteria suggested by the OPM response format. We appreciate the efforts of you and your staff on behalf of improving the productivity and quality of service in the Federal government and look forward to the executive summary of the final report when it is sent to the Congress.

If your staff have questions or need clarification on any part of the report, please have them contact Robert F. Diegelman, Director, Management and Planning Staff, on 501-6265.

Sincerely,


Harry H. Flickinger
Assistant Attorney General
for Administration

Enclosure

cc: Dr. Bud Deming
Project Manager

U.S. Department of Justice



November 1991
Justice Management Division
Management and Planning Staff

Name of Study/Initiative: Attorney Recruitment and Retention in the
Department of Justice
Management and Planning Staff

Objective:

To assess the current effectiveness and identify possible improvements regarding legal divisions/ efforts to recruit and retain high-caliber attorney workforce.

Methodology:

Mail-in questionnaires from all Division attorneys stationed in D.C., selected interviews with division managers and related statistical analyses.

Outcomes/Results:

Statistical documentation of factors most directly influencing Division attorneys/ decisions of whether, and how long, to work for DOJ. Recommendations addressed salary and general “worklife issues”, prompting creation of several task forces to follow through on proposals.

- The recruitment and retention of professionals in the Federal system is a governmentwide issue which affects the quality of Federal services.

Recommendations:

Based on recommendations from the “Worklife Issues Task Forces”, the Department conducted a follow-up study on Paralegal Use and is implementing a Paralegal Intern Program.

Contact:	Robert F. Diegelman Director Management and Planning Staff
Phone:	(202) 501-6265
Agency Address:	601 D Street, N.W., Suite 7000 Washington, D.C. 20530

Name of Study/Initiative: DEA Training Facility Needs
[Joint Department of Justice/Treasury Review]
Management and Planning Staff

Objective:

Analyze issues and options for meeting training needs, either through new construction or by using existing facility.

Methodology:

Interviews with DOJ and Treasury training officials, analyses of cost data/projections and user satisfaction surveys. Assessment based on six indicators: program control, space availability, cost, geographic location, consolidated training and collocation factors, and ease of implementation.

Outcomes/Results:

Produced sound basis for policy discussion and decision.

Contact:	Robert F. Diegelman Director Management and Planning Staff
Phone:	(202) 501-6265
Agency Address:	601 D Street, N.W., Suite 7000 Washington, D.C. 20530

Name of Study/Initiative: Planning for the Future - Phase 1
Office of the Commissioner, INS

Objective:

To achieve management and productivity improvements within the organization, and to improve operations and communications using TQM as a vehicle.

Methodology:

The Phase 1 strategy included the following steps:

- Use of an outside consulting firm.
- Organizational Needs Assessment.
- Convening an Executive Session to develop a vision statement and goals.
- Development of a strategic planning mechanism.
- Development of a plan to assess the current communication system in order to establish vertical communication throughout the organization.
- Establishment of a Quality Executive Counsel.

Outcomes/Results:

- The Quality Executive Counsel has been established and senior managers have received the executive level training.
- Projected outcomes include the establishment of a strategic planning mechanism for the organization, the development of participative management within the organization (Phase II), and the development of an INS Mission, Workload and Measurement System (Phase III).

Contact:	Edward J. Lynch Director Office of Strategic Planning
Phone:	(202) 514-2199
Agency Address:	Room 6038 CAB Building 425 Eye Street, N.W. Washington, D.C. 20536

Name of Study/Initiative: Total Quality Management Initiative
Records Systems Division (CORSD), INS

Objective:

To improve productivity through strategic planning, and the implementation of Total Quality Management (TQM) concepts and practices; and to provide more services with decreasing resources.

Methodology:

The CORSD strategy includes the following steps:

- Use of outside consultants.
- An assessment survey of all key program managers (Headquarters and Regional Offices).
- An assessment survey of a cross-section of approximately thirty-five (35) middle managers, first-line supervisors and other key employees.
- Analysis of survey data and development of a profile report which served as the basis of a two-day working conference to identify systems for improvement and strategies for accomplishing the goals.
- Initiation of planning steps which will ultimately result in a five (5) year plan encompassing the goals identified and using TQM management tools and process.

Anticipated Results:

- The TQM project is expected to result in a long-term strategic plan which includes the application of TQM principles. Mechanisms for measuring customer satisfaction are being developed as part of the plan.

Contact: Robert L. Martinez
Assistant Commissioner
Records System Division

Phone: (202) 514-2989

Agency Address: 425 Eye Street, N.W.
Washington, D.C. 20536

Name of Study/Initiative: Total Quality Management Initiative.
Identification Division, FBI

Objective:

To increase responsiveness to customer/employee needs and to increase the quality of services to both internal and external customers

Methodology:

Efforts to reduce attrition by soliciting employee input; rewarding employees; upgrading positions, where warranted; and application of ergonomics.

- Development of programs to be more responsive to customer needs, review of reject policy for arrest fingerprint cards; conversion of 8.8 million manual criminal history records to an automated system.
- Establishment of Quality/Software Assurance Programs.

Projected results:

- Annual savings of both time and money measured through analysis of statistical data gathered to assess improvements, monitoring work processes and employee turnover, and through evaluation of customer feedback.

Contact:	Lawrence K. York Assistant Director Identification Division
Phone:	(202) 324-5401
Agency Address:	11255 JEH Building 9th & Pennsylvania Avenue, N.W. Washington, D.C. 20535

Name of Study/Initiative: Total Quality Management: Awareness Initiative (Phase I)
Administrative Services Division, FBI

Objective:

To establish a framework for the implementation of Total Quality Management.

Methodology:

- Awareness seminars for Headquarters division managers on TQM implementation and long-range planning.
- Establishing TQM as the theme and major agenda item for an Executive Retreat.
- Recommending TQM speakers for the FBI's Distinguished Lecturer Series.

Short-term results:

- The presentation of TQM awareness seminars to familiarize all ASD personnel with the TQM management approach and to discuss the benefits. TQM presentations have been made to Unit Chiefs, support supervisors, and ASD executive management by the Assistant Director and several consulting firms off the Federal Supply Schedule Contract.
- The establishment of Process Action Teams to identify customer and supplier requirements, analyze processes, and determine appropriate measurement indicators in order to assess improvement in the Division's products and services.

Contact:	Weldon L. Kennedy Assistant Director Administrative Services Division
Phone:	(202) 324-3514
Agency Address:	JEH Building, Rm. 6012 9th & Pennsylvania Ave., N.W. Washington, D.C. 20535

Name of Study/Initiative: Total Quality Management Implementation
Laboratory Division, FBI

Objective:

The goal of the quality initiative is to establish policy and procedures, including organizational responsibilities, for implementing the Laboratory Division's efforts to continually improve the quality of its products and services, and the efficiency of the processes that produce them with the following benefits:

- Achieve continuous, incremental improvement in the quality, timeliness, efficiency, and effectiveness of the Division's products and services;
- Foster a long-term sustained commitment by Laboratory leaders, program managers, and all employees to excellence in their work efforts;
- Incorporate an internal/external customer focus in all operations and strive to satisfy their requirements.

Methodology:

Annual Laboratory Managers Retreat in November 1990 as the setting in which to formulate the Division's TQM vision and strategy.

Contact:	John W. Hicks Assistant Director Laboratory Division
Phone:	324-4410
Agency Address:	JEH Building, Room 3090 9th & Pennsylvania Ave., N.W. Washington, D.C. 20535

Name of Study/Initiative: Total Quality Management Initiative.
Information Management Division, FBI

Objective:

To enhance the quality of its products and services and increase the productivity of the Division's work force, while operating in a resource-constrained environment.

Methodology:

- Information Management Division awarded a contract to Organizational Dynamics Inc. (ODI) pursuant to the OPM Federal Supply Schedule for Total Quality Management. ODI conducted top management interviews and briefings, then conducted a strategy and planning conference for senior managers.

Outcomes:

- Six Quality Action Teams were identified to study the following areas: (1) Mail Flow and Distribution; (2) Processing of Correspondence for File; (3) File Accountability; (4) Personnel Records Information; (5) Name Check Program; and (6) Freedom of Information/Privacy Act.
- Eighteen employees were trained as Quality Awareness training facilitator; seven employees were trained as Quality Action Team facilitator for the problem-solving groups and team leaders and team members were selected. Start-up activities were facilitated by the ODI consultants.

Contact:	G. Norman Christensen Assistant Director Information Management Division
Phone:	(202) 324-4840
Agency Address:	JEH Building, Room. 5829 9th & Pennsylvania Ave., N.W. Washington, D.C. 20535

Name of Study/Initiative: Training and Development Project (new)
Management and Planning Staff
Personnel Staff

Objective:

1. Identify the training and development needs of current and future supervisors, managers and executives; 2. assess the Department's capacity for meeting these needs; 3. examine alternative ways to train and develop managers and leaders; 4. recommend concrete steps the Department can take to insure that training and development efforts foster the highest possible caliber of workforce in the 1990's and beyond.

Methodology:

- Survey and analysis of the training and development needs of current and future supervisors, managers and executives.
- Assessment of the office, interpersonal and related developmental skill needs of selected non-managers throughout the Department.
- Establishment of Department Advisory Board, including managers from program and administrative divisions of major component organizations, which will provide support and guidance during the life of the project.
- Assessment of best practices for training and development content and delivery in other public and private sector organizations.

Contact: Robert F. Diegelman
Director
Management and Planning Staff

Phone: (202) 501-6265

Agency Address: 601 D St. N.W., Suite 7000
Washington, DC 20530

Name of Study/Initiative: Attorney Training Study
Civil Division

Objective:

(a) Determine the funding, materials, services, and programs currently used within the Civil Division for the training of attorneys; (b) survey all Division attorneys to obtain their views and recommendations as to new or improved approaches to training; and (c) make recommendations as to future actions which should be undertaken to enhance the effectiveness of, and increase the opportunities for, training of attorneys within the Division.

Methodology:

- The analysis relied upon research, and included written surveys of all Division attorneys.

Outcomes/Results:

- An in-depth report was produced as a result of the effort.
- The report recommended an improvement in Division-wide training activities to complement activities already being conducted on the Branch and component level without calling for the expenditure of additional monetary resources.

Contact:	Kenneth L. Zwick Director Office of Management Programs
Phone:	(202) 514-4552
Agency Address:	Civil Division Main Justice Building, Room 3140 10th & Constitution Ave., N.W. Washington, D.C. 20530

Name of Study/Initiative: Paralegal Use in the Department of Justice
Management and Planning Staff

Objective:

Examine how paralegals are used throughout DOJ, particularly in a support role to attorneys in the legal divisions. Identify any notable changes in usage patterns since similar review was completed in 1983.

Methodology:

See attached.

Outcomes/Results:

The Paralegal Intern Program is currently being implemented in the Department.

Recommendations:

Proposed series of actions generally intended to raise the standards of the paralegal profession as it is practiced within DOJ. Several "no cost" recommendations addressing improved recruitment, training and management approaches were included as well as a new initiative (Paralegal Intern Program) designed to incorporate the best features of effective paralegal hiring and use.

Contact:	Robert F. Diegelman Director Management and Planning Staff
Phone:	(202) 501-6265
Agency Address:	601 D Street, N.W., Suite 7000 Washington, D.C. 20530

A STUDY OF PARALEGAL USE
IN THE
DEPARTMENT OF JUSTICE
August 1991

U.S. Department of Justice
Justice Management Division
Management and Planning Staff

EXECUTIVE SUMMARY

There is considerable variation in the way paralegal specialists are selected, trained, developed, used, and valued within Department of Justice (DOJ) components. In spite of these differences, there is a widespread belief that the Department should set higher standards for selecting individuals to fill these positions and for assigning responsibilities to these employees. However, there is also a widely-held view that opposes the creation of uniform Departmental requirements that might reduce management flexibility over the utilization of these resources in the performance of the Department's varied legal activities. The challenge, then, is to reconcile what appear to be conflicting demands. The Department must establish and encourage adherence to higher standards for the selection and use of paralegals without dictating or prescribing particular approaches that would inhibit the abilities of the components to carry out their missions.

The desire to improve standards in the selection and development of paralegals suggests that the activities associated with these functions have not been performed successfully on a consistent basis throughout the Department, resulting in general underutilization of paralegals. The findings of this study indicate that these shortcomings are caused by several interrelated factors, each of which contributes to or compounds the effect of another.

These factors are identified and described below. Following that is a brief description of proposed solutions that address these causes of paralegal underutilization, establish Departmental standards for the selection and use of

paralegals, and allow the components the operational flexibility they require.

Staffing Preferences

Many legal unit managers prefer to hire attorneys rather than paralegals because they see attorneys as able to do anything a paralegal can do, plus an attorney can represent the Department in court. Although this approach is inefficient and ignores attorneys' job satisfaction concerns, managers justify it on the basis of needing maximum flexibility to achieve their litigation goals. While program effectiveness is extremely important, these staffing preferences result in the paralegal's role being undervalued, fewer paralegals being employed, and many Department attorneys being underutilized.

Role of Paralegals

The paralegal specialist's role is difficult to define because it lies between the more clearly defined roles of the secretary and the attorney. The literature on law office management typically defines paralegal functions as those that would otherwise be performed by attorneys. To the extent that the paralegal's role is undervalued by unit managers, it is more difficult to define properly. Unit managers must be aggressive in defining the paralegal's role within their offices and in encouraging attorneys to delegate substantive responsibilities to these individuals. This encouragement must be accompanied by definitive instruction regarding the use of paralegals, either through formal training or informal guidance provided by an attorney's supervisor, or through a mentor.

Recruitment/Selection

To enable attorneys to make optimal use of paralegals, managers must select qualified individuals when filling paralegal positions. Some components actively recruit on college campuses and in local newspapers for prospective candidates. Other components rely heavily on the merit promotion program and promote clerical personnel into paralegal positions. While many unit managers indicate that a college education is an important factor in their selection of new paralegals, not all managers agree on this point and many cite former secretaries as among their offices' best paralegals. The differences in opinion concerning the necessary qualifications for a paralegal reflect variations in the type of work paralegals are assigned and in the role they are expected to fill within an office. One result of the differences in the recruitment and selection processes for paralegals is a Departmental paralegal workforce that is uneven in its professional abilities.

Training

Optimal use of paralegals is also dependent on whether they have the requisite knowledge and skills to do their job. Training of paralegals varies significantly among the components. While some recent hires have certificates in paralegal studies, and others have received basic paralegal training through the Department's training center, many paralegals have not received any significant formal training for their positions. Many managers assume on-the-job-training will be sufficient and only consider formal training when requests are initiated by the paralegals themselves. Formal training opportunities are further constrained by limited training funds, requiring paralegals to compete

with others in the office for these resources. To the extent that paralegals do not have the requisite skills, they are more likely to be given work assignments that are not commensurate with their positions.

Clerical Functions

Achieving maximum utilization of paralegals to provide direct litigative support to attorneys is further diminished by a tendency to rely on paralegals to perform clerical functions. Many of the persons interviewed in the course of this study spent considerable time discussing inadequacies in the clerical ranks, especially in the Washington area. These inadequacies, both in number and quality, are attributed in part to low government salaries and confusion over job responsibilities. These problems affect attorneys as well as paralegals since both must spend much of their time performing clerical activities. An additional effect on the paralegal profession results when less-than-fully-qualified candidates are selected for paralegal positions. A paralegal job is often seen as a reward for excellent secretaries. Problems arise when these new paralegals continue to be given secretarial duties to perform or are not qualified to handle their new responsibilities, a situation that is exacerbated by a lack of formal training or over-reliance on on-the-job training.

Solutions

Several narrowly-focused recommendations are included in Chapter II of this report. Taken together, these recommendations constitute one available option for improving the selection, development and use of paralegals. The Department's role in these particular efforts will be limited to improving the recruitment mechanisms and training

opportunities for paralegals, while much of the responsibility for improving the ways paralegal resources are deployed and managed will remain with the components. A primary benefit of this limited option is the nominal costs associated with these recommendations.

With the specific dedication of additional resources, however, an additional course of action is open to the Department. Through this expanded option, the Department can take a more active role in addressing the interrelated factors contributing to underutilization of paralegals by establishing Departmental standards for the selection and use of paralegals while also allowing the components to retain the operational flexibility they require. This can be accomplished through the establishment of a DOJ Paralegal Intern Program, as described and recommended in Chapter III. The Intern Program would enable the Department to recognize the value of the paralegal position, define a substantive litigation support role for paralegals, ensure that resources are dedicated to recruit and train paralegals, and provide the components with exceptional candidates for their positions.

Name of Study/Initiative **Management Review of the Immigration and
Naturalization Service Legal Proceedings Program
Management and Planning Staff**

Objective:

To examine the issues regarding the structure and functions of the Legal Proceedings Program, as well as the relationships with other organizations, such as the Executive Office for Immigration Review (EOIR) and various components within INS, in light of the unprecedented growth of the Program.

Methodology:

See attached.

Outcomes/Results:

Contact:	Robert F. Diegelman Director Management and Planning Staff
Phone:	(202) 501-6265
Agency Address:	601 D Street, N.W., Suite 7000 Washington, D.C. 20530

**MANAGEMENT REVIEW
OF THE
IMMIGRATION AND NATURALIZATION SERVICE
LEGAL PROCEEDINGS PROGRAM**

AUGUST 1991

**U.S. Department of Justice
Justice Management Division
Management and Planning Staff**

INTRODUCTION

Over the last several years, the Immigration and Naturalization Service (INS) has undergone several major reorganizations, involving significant changes in its structure, functions and leadership. These developments have included changes within the Office of the General Counsel. Most notably, over the last decade, the Legal Proceedings Program has evolved from a period where nonattorneys frequently represented the Government's interest in matters before appropriate officials regarding exclusion and deportation hearings to the current situation, whereby attorneys, largely hired through the Department's attorney hiring program, present cases before immigration judges, the Board of Immigration Appeals (BIA), the Merit Systems Protection Board, the Equal Employment Opportunity Commission, and boards of contract appeals. Moreover, these attorneys provide advice to INS components, e.g., Investigations, Border Patrol, and the Asylum Program. The Legal Proceedings Program also works with other Federal agencies, such as the Department of State and the Department of Defense, on issues related to illegal criminal aliens. Organizationally, the Office of the General Counsel has evolved from a situation whereby INS District Counsel reported to the District Director to the current situation whereby all District Counsels report through the Regional Counsels to the General Counsel. At the same time, the workload of the Legal Proceedings Program has increased dramatically. At present, INS has 347 attorneys, making it larger than some of the Department's litigation divisions.

The unprecedented growth in the Legal Proceedings Program has raised numerous issues regarding its structure, functions, and relationships with other organizations, such

as the Executive Office for Immigration Review (EOIR) and various components within INS. To address these and related issues, the Attorney General directed the Management and Planning Staff (MPS), Justice Management Division, to conduct a management review of the Legal Proceedings Program.

To meet this directive, MPS formed a study team which subsequently prepared a work plan, delineating the scope of its inquiry. An integral part of this inquiry involved the review of all available, relevant documents regarding the program and interviews with INS officials, immigration and administrative law judges, and members of the private bar who have extensive experience and knowledge of INS's legal activities. The study team also used quantitative workload data in the G-23 system. Since travel budgets were limited, the study team conducted site visitations only to a few, selected regional and district offices. These offices were chosen after discussion with representatives of the Office of the General Counsel, based on diversity of experienced personnel, workload, and local circumstances. While one cannot generalize from singular experiences, the study team believes that most of the insights obtained at these sites have broad application Service-wide, since many of the interviewed personnel had many years of service and experience in other regional and district offices. Again, information obtained through these site visits was complemented with other written documentation and other interviews to provide a broad base upon which to assess the overall performance of INS's legal activities.

Concurrently, another study team from the Management and Planning Staff was conducting an analysis of the workload of EOIR. Since the work of the Office of the General Counsel is intrinsically linked to EOIR, wherever possible the two study teams coordinated their activities. The specific recommendations of these studies differ in that they are directed primarily to the organizations under consideration. However, there was general agreement that at least one broad recommendation applied to both groups, namely, that INS and EOIR must coordinate all aspects of their activities closely to ensure that the congressional intent regarding the application of immigration laws is applied fairly, consistently, and as efficiently as possible within existing resource constraints.

This report is presented in three parts:

Chapter I is an examination of the organizational structure of the Office of the General Counsel within INS and the specific functions and workload of its three principal components — headquarters, regional offices, and district offices.

Chapter II delineates five key issues — staffing, the organizational placement of the Office of the General Counsel within the Department, automation activities, the INS/EOIR interface, and external factors affecting the workload of the General Counsel.

Chapter III presents report conclusions and recommendations.

Chapter III: CONCLUSIONS AND RECOMMENDATIONS

It should be clearly noted at the outset that the Office of the General Counsel appears to be functioning in a highly professional manner in carrying out its mission and functions. In the face of what appears to be an overwhelming workload of increasing proportions, INS attorneys interviewed appeared to be positive toward their work. Despite "negative" reviews of the INS organization, in the press and GAO reports, and changing leadership in headquarters, the General Counsel's staff takes pride in its work. This element can be accounted for by several factors, including (1) the professionalism and personal commitment of the Office of the General Counsel, (2) the challenging nature of the work and its direct impact on clients, and (3) the presence of experienced and knowledgeable supervisors/managers who are directly aware of the work demands being made on their attorneys and supportive of the policies of the Commissioner. It was encouraging to observe high morale, particularly in light of the fact that district attorney workload has increased over 40 percent from FY 1988 to FY 1990, while attorney resources have increased only 2 percent. Moreover, support staff resources have actually declined 23 percent during this two-year period.

The study team interviewed attorneys in other parts of the Justice Department, as well as several private attorneys involved in immigration law. When asked about the performance of INS attorneys, the response was almost universal that INS attorneys are completely professional and skilled in their work, as well as cooperative in their dealings with opposing counsel.

Implementation of the Employer Sanctions Program was viewed as a major success, largely attributed to the leadership and management of this program by OGC Headquarters. These factors will be valuable assets to INS as it phases in the implementation of the Immigration Act of 1990 under new leadership within the Office of the General Counsel.

Notwithstanding the positive impressions received by the study team, there remains much work to be done. To facilitate this process, this study includes a series of recommendations. The underlying theme for all these specific recommendations can be stated as follows:

The Commissioner, INS, and the Office of the General Counsel must ensure that the work of the OGC is closely coordinated with all activities of other INS components, the Executive Office for Immigration Review, the U.S. Attorneys, other Department components, and extra-Department agencies to ensure effective fulfillment of its mission.

To facilitate this coordination, this study makes the following recommendations:

Staffing:

1. Based on a review of district workload data and discussion with the JMD Budget Staff, the study team recommends the Office of the General Counsel should receive additional resources to meet its expanding workload. For FY 1993, the Budget Staff has approved an increase of 169 positions and \$13.56 million. The study team supports this increase.

2. Resources should be found and personnel actions expedited to enable the Legal Proceedings Program to fill the positions which are currently vacant.

3. Legal Proceedings resources should not be diverted from their primary purposes to supplement other INS programs and enforcement efforts.

4. Efforts underway to upgrade the G-23 system should be expedited, and staffing guidelines should be reviewed to ensure that both adequately reflect existing and new services, such as fraudulent documents and user fee services.

5. To provide a stronger basis for the resource allocation process, the Office of the General Counsel should develop quantitative workload measures for Headquarters and regional offices.

6. The OGC regional offices should have overhire authority up to 10 percent over the ceiling, in order to reduce the amount of lag time between lawyer hires, particularly in large offices.

7. The OGC regional and district offices should have hiring authority to fill support positions through grade GS-11. Managers should strive to maintain at least a 3:1 ratio of attorneys to support staff.

8. The Special Assistant U.S. Attorneys Program should be maintained and, if possible, expanded.

9. The Office of the General Counsel should use trained paralegals for specific work assignments in large offices, or in satellite offices, e.g., border patrol sector offices, to enhance the timeliness and effectiveness of legal services.

Organizational Placement of the Office of the General Counsel:

10. The Office of the General Counsel should remain within INS.

11. Close coordination with other litigating entities within the Department should be maintained, and INS and these components should examine the possibility for increased details to and from INS to provide broad based experience in immigration matters for all immigration attorneys and facilitate career development opportunities.

Automation:

12. Timetables should be established for the implementation of an automated information systems plan to facilitate access by affected INS personnel to information and legal research tools as required.

INS/EOIR Interface:

13. The Attorney General should establish a permanent, interagency INS/EOIR Policy Coordinating Committee to coordinate all activities involving the interactions of INS and EOIR missions and functions.

14. At a minimum, specific tasks of this committee should include:

- Close coordination of automated system efforts for improving hearing notification procedures;
- Procedures for coordinating all matters related to the release, transferral and detention of aliens scheduled for hearings;
- Speedy resolution of issues related to the collocation of INS and EOIR offices; and

- Periodic review of the forms and contents of Orders to Show Cause and Notices of Intent to Fine to ensure completeness, accuracy and timeliness.

External Factors Affecting Workload of the Office of the General Counsel:

15. Officials responsible for the issuance and sign-off for OSCs should develop tighter standards and quality control measures. Specific suggestions include:

- increased supervisory review;
- modifications in OSC content, as required, after consultation with EOIR; and
- periodic, statistical sampling of OSCs to ensure quality control, particularly with regard to completeness and accuracy.

16. Detention and Deportation should continue its efforts to implement pilot projects with regard to the release of aliens into the custody of voluntary agencies to alleviate space problems within detention facilities, and the use of special teams to locate aliens who fail to show following final orders of deportation. Detention and Deportation should also investigate whether or not unused detention space is available and, if feasible, develop a plan to maximize its use.

17. INS, in concert with the U.S. Attorneys, should investigate the feasibility of using collection agencies, or similar entities, to collect unpaid employer sanctions fines pending in the U.S. Attorneys' Offices.

18. The role of INS attorneys should be expanded to include more direct input into all legally-related matters within INS, including closer reviews of regulations and increased flexibility in deciding which cases should be brought before the attention of the immigration judges and which cases should be declined.

The intent of the foregoing recommendations is to bring together the affected components of INS (and EOIR) in such a way that INS's litigation priorities have teeth. To be sure, some of these proposals are already under discussion. What is most needed presently is quick, decisive action. Resources expended in the litigation process must be proportional to achievement of the end product, that is, the deportation of those issued final orders of deportation after exhausting all other alternatives and ensuring complete due process considerations. This goal will only be feasible if all parts of the process work in harmony.

Name of Study/Initiative: Reception, Processing and
Care of Cubans and Haitians
Community Relations Service

Objective:

To conduct a needs assessment of Mariel Cuban offenders held in INS custody and use the information to provide a basis for new policies, procedures and programming that could positively impact the handling of the Mariel Cuban detainees and also be appropriate for adaptation to other populations in the criminal justice system.

Methodology:

- Interviews with Mariel Cubans and supervisory staff in BOP and INS facilities, Public Health Service halfway houses and the CRS halfway houses.

Outcomes/Results:

- Project just completed.

Recommendations:

- The recommendation of the contractor indicated that the greatest need is for detainees to receive instruction in English as a second language.

Contact:	Arthur E. Collins, Jr. Associate Director Office of Planning, Budget & Evaluation
Phone:	(301) 492-5900
Agency Address:	Community Relations Service Park Place Bldg. 5550 Friendship Blvd. Chevy Chase, MD 20530

Name of Study/Initiative: An Analysis of Issues Related to the Organizational Placement of the Cuban-Haitian Entrant Program (CHEP) within the Department of Justice. Management and Planning Staff.

Objective:
See attached.

Outcomes/Results:
A needs assessment, "The Reception, Processing and Care of Cubans and Haitians," was recently completed by the Community Relations Service in response to one of the recommendations in the MPS Study.

Contact:	Robert F. Diegelman Director Management and Planning Staff
Phone:	(202) 501-6265
Agency Address:	601 D Street, N.W., Suite 7000 Washington, D.C. 20530

AN ANALYSIS OF ISSUES RELATED TO
THE ORGANIZATIONAL PLACEMENT OF
THE CUBAN-HAITIAN ENTRANT PROGRAM (CHEP)
WITHIN THE DEPARTMENT OF JUSTICE

February 1989

U.S. DEPARTMENT OF JUSTICE
JUSTICE MANAGEMENT DIVISION
MANAGEMENT AND PLANNING STAFF

EXECUTIVE SUMMARY

During the course of the FY 1990 Spring Planning review process, the Department Resources Board expressed concern related to the performance of current services provided by the Cuban-Haitian Entrant Program (CHEP) under the auspices of the Community Relations Service (CRS). Specifically, it raised questions regarding the organizational placement of CHEP within CRS and indicated that other organizations had expressed concerns with regard to the processing of Mariel Cubans. Subsequently, the Associate Attorney General directed the Management and Planning Staff (MPS), Justice Management Division (JMD), to conduct a study whose purpose would be to examine issues related to the reception, processing and care of Cuban and Haitian entrants to determine the most appropriate organizational placement of CHEP within the Department. Its scope includes an analysis of services provided by the program.

The study team's findings are derived from an analysis of written materials and interviews with knowledgeable and experienced departmental and extra-departmental personnel. The study team made field visits to Atlanta, Georgia; Kansas City, Missouri; and Houston, Texas to conduct on-site interviews with CRS and BOP grantees. Reliable statistical data which is essential for assessing CHEP's long-term performance was either sketchy or, in some instances, nonexistent. Notwithstanding this limitation, the report's major findings include the following:

- . BOP and INS officials are critical of CRS's responsiveness in placing Mariel Cubans released by INS from detention facilities.
- . At the time of the Atlanta and Oakdale riots, INS was unable to persuade CRS to move more quickly and adopt more flexible policies with regard to the placement of Mariel Cubans with family sponsors. Consequently, INS with BOP assistance made the majority of family placements on its own, without CRS assistance.
- . CRS is critical of INS with regard to its screening procedures, since it asserts that those released to families had criminal records, created a serious threat to public safety, and should only be placed in more structured environments, that is, halfway houses.
- . Neither CRS nor INS have maintained adequate records over an extended period of time which would facilitate more careful evaluation of their respective performances prior, during, or after the riots regarding the detention, release and resettlement of Mariel Cubans.

- . According to BOP, CRS and INS, the current Mariel Cuban resettlement population is still moderately young, exhibits increasing criminal behavior and requires structured placements.
- . New CRS management is moving aggressively to institute improvements in the areas of grants management, long-term planning, and CHEP program evaluation; however, to date, CRS still has unresolved issues related to prior CHEP audits and studies, specifically in the area of internal controls.
- . The consensus opinion among knowledgeable and experienced departmental and extra-departmental personnel regarding program duration is that CHEP services will be needed for some years to come, since Mariel Cubans in State and local prisons will continue to be returned to Federal custody.
- . The remaining Mariel Cuban resettlement population should continue to be placed primarily in CRS grantee halfway house settings which provide programs to meet the unique needs of this group.
- . A system of checks and balances over Mariel Cubans is best preserved through separation of detention and release functions (INS) from resettlement functions (CRS).
- . Program coordination among departmental and extra-departmental parties is sparse, but has taken on increasing importance in light of repatriation and other related matters.
- . Senior departmental management should be kept better informed on all matters related to the detention, release, and resettlement of the Mariel Cuban population.

Based on these findings, this report makes the following recommendations:

1. CHEP should remain within CRS at least through FY 1991 to ensure the following:
 - Provide stability for the Mariel Cuban-specific program structure and its grantees;

- Provide CRS new management with the opportunity to demonstrate its ability to manage CHEP effectively; and
- Implement the suggestions provided in recommendation 2, below.

The Department should monitor these efforts carefully and at the end of this period reexamine CHEP with regard to its future activities.

2. CRS should improve the management of CHEP by:

- More fully integrating CHEP with CRS's conciliation and mediation services so as to provide a more coordinated, systematic approach to resettlement efforts;
- Establishing tighter internal controls to enhance administrative accountability in areas such as grants management, travel and financial monitoring;
- Drawing upon BOP correctional experience more extensively in settling the remaining Cuban population.
- Continuing to explore new opportunities such as the joint job placement programs with the U.S. Parole Commission to facilitate rapid resettlement of the remaining Mariel Cuban population;
- Developing a program performance data-base model to assist CRS in tracking program performance and evaluating its programs;
- Preparing a report within six months, documenting the progress CRS has made to improve overall CHEP performance;
- Preparing on an ongoing basis, regular briefings for senior Department leadership regarding its progress and performance in managing CHEP;
- Increasing its responsiveness to INS requests, particularly with regard to the placement of Mariel Cubans with family sponsors so as to provide a unified departmental response to Mariel Cuban-related matters; and
- Developing a long-range management plan, including plans for the eventual phase-out of CHEP as the Mariel Cuban population declines.

-iii-

3. The Department should reinstitute the Cuban-Haitian Task Force (or a similar mechanism) to ensure governmentwide coordination of efforts in matters related to CHEP.
 - The Task Force should be chaired by the senior Department leadership and include representation by the State Department, Public Health Service, INS, BOP, CRS, U.S. Parole Commission, and other departmental officials responsible for directing activities related to parole and repatriation efforts.
 - The Task Force should focus on the following areas of responsibility:
 - . Ensure that each affected component is aware of the activities of other components which may affect operation of the overall CHEP programs;
 - . Prepare resource allocation estimates to assist agency planners in their resource planning efforts; and
 - . Oversee the implementation of long-range plans to eventually phase out CHEP.
4. To assist in the orderly placement of Mariel Cubans released from detention facilities, INS should increase its efforts to maintain thorough and complete records on these individuals, including their adjustment within State and local correctional facilities.



OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

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DEPARTMENT OF JUSTICE

AUG 26 1991

'91 AUG 28 A10:45

EXECUTIVE SECRETARIAT

Honorable Richard L. Thornburgh
Attorney General
Department of Justice
10th Street & Constitution Avenue, NW.
Room 5111
Washington, DC 20530

Dear Attorney General Thornburgh:

The Office of Personnel Management needs your help in preparing a report to Congress on ways to improve the quality of Government services as well as the productivity of the Federal workforce. Congress included this requirement in the same legislation that reformed the white collar pay system. The study must be completed by the summer of 1992.

In undertaking a study of this magnitude, rather than risk duplicating studies already concluded, we wish to incorporate relevant findings and recommendations from previous studies. Your agency may have conducted a variety of such studies over the past five to ten years. Some may have focused directly on ways to improve the effectiveness of your organization, while others may be studies of training needs, organizational structure, applied technologies, etc. Some may have focused on the entire organization, while others may have examined a particular program or subunit. They may have been conducted by a headquarters or a field unit.

You can help by reviewing studies done by or for your agency, deciding which might be relevant to the theme of quality service or productivity, and then extracting key information to send us. To assist us in analyzing the information accurately, we have enclosed a brief standardized response format. One of these should be completed for each study you choose to include.

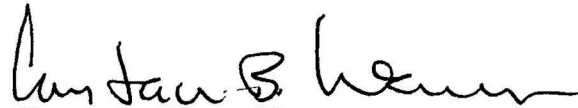
Your input will be compiled with that of other agencies and analyzed for common themes and generalizable recommendations. We will describe our method of collecting information in our report but will not publish your responses in any identifiable form. Should you have any questions about the study or this request, please contact Dr. Bud Deming, (202) 606-2219. Please also forward to Dr. Deming the name and phone number of the appropriate contact person in your organization.

Honorable Richard L. Thornburgh

2

It is important to us that this study yield results which ultimately help agencies improve productivity and quality of service. Therefore, we will supply you with a copy of the executive summary of this report when it is sent to the Congress. Because we expect to be dealing with a large volume of responses, we ask that you supply us with your input by November 1, 1991. Your cooperation and assistance is most appreciated.

Sincerely,


Constance Berry Newman
Director

Enclosure

cc: Mr. Jim Sholly
Productivity Contact

Study of Studies Guidelines

1. If you possess an Executive Summary for the study, it may contain all or most of the items we ask for here. Please include the Executive Summary, if available. If a summary is not available or does not contain all the items asked for here, please provide written responses to those items below not otherwise addressed.

2. What was the intent or objective of the study?

3. Describe the methodology used to carry out the study.

4. What were the observable outcomes of the study?

5. Were any models, prototype systems, or conceptual paradigms developed as a part of the study? If so, please include information about them.

6. What recommendations were made in the study or resulted from the study that might be generalizable to other Government organizations, e.g.:

- a. training
- b. technology
- c. management practices?

7. If recommendations were not implemented, what prohibited the implementation?

8. If recommendations were carried out, were there any discernable results, e.g.:

- a. improved service
- b. improved employee and/or customer relations
- c. reduced costs?

9. Contact person:

Agency address:

Phone:

Please send your responses to OPM at the following address:

OSIS - Room 7433
ATTN: Productivity Study
U. S. Office of Personnel Management
1900 E. Street, N. W.
Washington, D. C. 20415-0001

Address any questions to Bud Deming at (202) 606-2219.

DOJ EXECUTIVE SECRETARIAT CROSS-REFERENCE RECORD



CONTROL NUMBER: 91090515944

FLICKINGER, HARRY JMD

(Designating Rep for AC to Help Implement FLER Act)

THE ENTIRE DOCUMENT PACKET FOR THE CONTROLLED
CORRESPONDENCE INDICATED BY THE ABOVE EX.SEC.
CONTROL NUMBER HAS BEEN FILED IN THE FOLLOWING
PRIMARY FILE LOCATION WITHIN THE SUBJECT FILES
OF THE ATTORNEY GENERAL.

PRIMARY FILE: AG MEMORANDA/Heads Of Law Enforcement
Components
4 Sep 91

OFFICE OF PERSONNEL MANAGEMENT (OPM)

4 SEP 91
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DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: NEWMAN, CONSTANCE BERRY, DIRECTOR, OPM
To: HEADS OF DEPARTMENTS AND AGENCIES (CC: AG.) ODD: NONE
Date Received: 10-09-91 Date Due: NONE Control #: X91101017547
Subject & Date

10-08-91 MEMO ADVISING THAT THE FEDERAL EMPLOYEES HEALTH
BENEFITS (FEHB) PROGRAM 1991 OPEN SEASON BEGINS ON
NOVEMBER 12, 1991, AND CONTINUES THROUGH DECEMBER 9, 1991.
OPEN SEASON ENROLLMENTS AND ENROLLMENT CHANGES BECOME
EFFECTIVE IN JANUARY 1992. ENCOURAGES THE USE OF AGENCY
FACILITIES FOR THE DISSEMINATION OF PLAN INFORMATION BY
FEHB CARRIERS TO ASSIST EMPLOYEES IN MAKING AN INFORMED
CHOICE FOR HEALTH BENEFITS PLANS.

Referred To: Date:		Referred To: Date:		
(1)	JMD;FLICKINGER 10-10-91	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: JMD		Date Released:		MAU

Remarks

INFO CC: OAG, DAG.

(1) FOR APPROPRIATE HANDLING. ADVISE EXEC. SEC. OF ANY
ACTION TAKEN.

Other Remarks:

SHRED 10/10/91
FILE: OFFICE OF PERSONNEL MANAGEMENT (OPM)
J911010 4120

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

8 OCT 91



OFFICE OF THE DIRECTOR

UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT

WASHINGTON, D.C. 20415

OCT 8 1991

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'91 OCT -9 P3:54

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

EXECUTIVE SECRETARIAT

FROM: *Constance Berry Newman*
CONSTANCE BERRY NEWMAN
DIRECTOR

SUBJECT: Federal Employees Health Benefits Program
1991 Open Season

The Federal Employees Health Benefits (FEHB) Program 1991 open season begins on November 12 and continues through December 9. Employees eligible to participate in the Program who are not enrolled in an FEHB plan may enroll. Employees already enrolled may change plans, options and/or type of enrollment. Open season enrollments and enrollment changes become effective in January 1992.

As I did last year, I am asking for your assistance in assuring that your agency will give priority attention to two elements of the open season that are essential to its success. They are (1) access to agency premises by carriers who sponsor or underwrite FEHB plans, and (2) agency processing of health benefits actions.

However, before discussing these elements (see below), I have a special request to make this year. With the cooperation of the FEHB plans, we are going forward with the cost containment initiatives that were instituted last year. Hospital precertification and large case management have proven valuable in ensuring that enrollees receive the care they need for the lowest possible cost. And the option to use Preferred Provider Organizations (PPOs) -- where enrollees may select doctors who have agreed to control the cost of services -- has reduced the out-of-pocket costs to Federal participants. I ask that you lend your support to our continuing initiatives by featuring this message in your agency's open season publicity. Sample language is enclosed for your convenience.

Carrier Access to Agency Premises

I encourage you to permit the use of your agency's facilities for the dissemination of plan information by FEHB carriers to assist employees in making an informed choice among all of the health benefits plans available to them. I believe that health benefits

fairs are among the most desirable means of allowing carriers to distribute OPM-approved informational material and discuss the features of their plans. Typically, a fair is conducted by giving all carriers access to agency premises at the same time and permitting employees to attend the fair during duty hours, lunch periods or break periods. If it is not practical to permit employees to attend the fair during duty hours, the fair can be conducted before or after hours, or on a weekend.

The health benefits fair can be a mutually beneficial event and can contribute to a successful open season only when it is conducted in a proper manner. Since the purpose of the fair is to inform, not to promote, I ask that you explicitly discourage carriers from giving free trinkets, holding raffles or engaging in similar activities that divert attention from the primary goal.

Agency Processing of Health Benefits Actions

Because it is imperative that open season health benefits actions are processed promptly and accurately, please urge your personnel and payroll offices to process these actions in a timely and correct manner. FEHB carriers must be given prompt and accurate notification of new enrollments in order to complete the paperwork necessary to provide coverage for employees and eligible family members during 1992. Carriers must also be notified of enrollment terminations when employees change to another plan so that the carriers can discontinue benefits.

By placing special emphasis on the timeliness and accuracy of processing health benefits actions this open season, you will help employees get their health plan ID cards quickly and in doing so will help the employees get prompt reimbursement and/or services from their health plans.

I thank you in advance for your assistance in making this year's open season a success and for supporting our cost containment initiatives.

Suggested Special Message About Cost Containment

In connection with the Federal Employees Health Benefits (FEHB) Program 1991 open season, which begins on November 12 and continues through December 9, the Office of Personnel Management asked us to tell you about the progress of cost containment initiatives in the FEHB Program.

With the cooperation of the FEHB plans, the Program is going forward with the cost containment initiatives that were instituted last year. Hospital precertification and large case management have proven valuable in ensuring that enrollees receive the care they need for the lowest possible cost. And the option to use Preferred Provider Organizations (PPOs) -- where you may select doctors who have agreed to control the cost of services -- has reduced the out-of-pocket costs to FEHB members.

You should be aware of the cost containment features of your FEHB plan. If you are thinking about changing plans during open season, be sure to become familiar with the features of your new plan (the plan's brochure is the best source) well in advance of the time you will need to use the plan's services.

With your help, the FEHB Program's cost containment goals can be realized.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: NEWMAN, CONSTANCE BERRY, DIRECTOR, OPM
To: HEADS OF DEPARTMENTS AND AGENCIES (AG.) ODD: NONE
Date Received: 10-22-91 Date Due: NONE Control #: X91102318108
Subject & Date
10-16-91 MEMO REGARDING AGENCY RESPONSIBILITIES TOWARD
BLIND AND VISUALLY IMPAIRED EMPLOYEES DURING THE FEHB OPEN
SEASON.

	Referred To:	Date:		Referred To:	Date:	
(1)	JMD;FLICKINGER	10-23-91	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1
	INTERIM BY:			DATE:		OPR:
	Sig. For:	JMD		Date Released:		CYN

Remarks
INFO CC: OAG, DAG.
(1) FOR APPROPRIATE HANDLING.

Other Remarks:

KMM 10-23-91
FILE: OFFICE OF PERSONNEL MANAGEMENT (OPM)
J911023 4246

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16 OCT 91



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT

WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

OCT 16 1991

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'91 OCT 22 P4:12

MEMORANDUM FOR HEADS OF DEPARTMENTS AND AGENCIES

FROM:

Constance Berry Newman
CONSTANCE BERRY NEWMAN
DIRECTOR

EXECUTIVE SECRETARIAT

SUBJECT: AGENCY RESPONSIBILITIES TOWARD BLIND AND VISUALLY
IMPAIRED EMPLOYEES DURING THE FEHB OPEN SEASON

Two years ago, the Office of Personnel Management began a program to provide health benefits and open season information to blind and visually impaired employees in formats designed to meet their special needs. We are continuing the program and again this year will make available the large print comparison chart (RI 70-10) for all plans and audio cassettes and Braille books for the open fee-for-service plans brochures. As in the past, we will distribute the information for blind and visually impaired employees as quickly as possible.

The special FEHB materials should help blind and visually impaired employees make informed decisions regarding their health benefits coverage. However, each department or agency must still provide one-on-one counseling, preferably by an agency benefits specialist, to fulfill its obligation to assist its employees during open season. The counselor should answer questions and provide relevant, factual information that will help the employee make his or her independent choice by assisting the employee in identifying specific differences among the several plans available to the employee. In addition, it may be appropriate for agencies to provide readers to assist blind and visually impaired employees in reviewing FEHB literature that may not be in a format readily accessible to them.

It is also very important for agencies to allow a belated open season election, if the agency finds that a blind or visually handicapped employee did not have access to the special materials or other assistance he or she needed to make an informed choice during the open season.

We appreciate your cooperation in ensuring that every Federal employee has access to the information and assistance he or she needs to make an informed health benefits decision. An Insurance Officers Bulletin is being distributed to your staff to provide specific information on obtaining the materials referred to in this memorandum.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: NEWMAN, CONSTANCE BERRY, DIRECTOR, OPM
To: HEADS OF DEPTS. AND INDEPENDENT AGENCIES (AG.) ODD: NONE
Date Received: 12-12-91 Date Due: NONE Control #: X91121220537
Subject & Date
12-03-91 MEMO ENCOURAGING AGENCY PARTICIPATION IN THE
NINTH ANNUAL FEDERAL GOVERNMENT COOPERATIVE EDUCATION
CONFERENCE SCHEDULED FOR MARCH 23-25, 1992, AT THE STOUFFER
CONCOURSE HOTEL, ARLINGTON, VA. THIS PROGRAM IS A MEANS
OF FURTHERING OPM'S EFFORTS TO HELP IN THE DEVELOPMENT OF A
QUALITY FEDERAL WORKFORCE FOR THE 1990'S AND BEYOND; WITH
ATTACHED FLYER.

Referred To:	Date:	Referred To:	Date:	
(1) JMD;FLICKINGER	12-12-91	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY: 3
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: JMD		Date Released:		MAU

Remarks
INFO CC: OAG, DAG.
(1) FOR APPROPRIATE HANDLING.

Other Remarks:

OLA CONTACT:
KMM 12-12-91
FILE: OFFICE OF PERSONNEL MANAGEMENT (OPM)
J911212 4925
CROSS REFERENCES:
1. CONFERENCES

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WASHINGTON, D.C. 20415

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'91 DEC 12 AM 11:39

DEC 3 1991

EXECUTIVE SECRETARIAT

MEMORANDUM FOR HEADS OF DEPARTMENTS AND INDEPENDENT AGENCIES

FROM:

Constance Berry Newman
CONSTANCE BERRY NEWMAN
DIRECTOR

SUBJECT:

The Ninth Annual Federal Government Cooperative
Education Conference

The Ninth Annual Federal Government Cooperative Education Conference is scheduled for March 23-25, 1992. This conference is sponsored by the National Capital Association for Cooperative Education, the Center for Cooperative Education Northeastern University, and the Southeastern Training Center for Cooperative Education the University of Alabama in association with the Office of Personnel Management.

There will be concurrent workshops on various subjects related to Federal Cooperative Education. Also, the conference will afford an opportunity for Federal agencies to share and exchange information with the academic community, as well as with each other.

I encourage your agency's participation in this program as a means of furthering our efforts to help in the development of a quality Federal workforce for the 1990's and beyond.

For additional information on the upcoming conference, you may contact the designated person(s) listed on the attached announcement. Also, Helen Lee, the Office of Personnel Management staff contact, can be reached on (202) 606-0870 or FTS 266-0870.

Attachment

**NATIONAL CAPITAL ASSOCIATION
FOR COOPERATIVE EDUCATION

CENTER FOR COOPERATIVE EDUCATION
NORTHEASTERN UNIVERSITY

SOUTHEASTERN TRAINING CENTER
FOR COOPERATIVE EDUCATION
THE UNIVERSITY OF ALABAMA**

PRESENT

**THE NINTH ANNUAL
FEDERAL GOVERNMENT COOPERATIVE EDUCATION CONFERENCE**

A MEETING FOR FEDERAL AGENCY CO-OP COORDINATORS

SPONSORED IN ASSOCIATION WITH THE U.S. OFFICE OF PERSONNEL MANAGEMENT

March 23 - 25, 1992

**Stouffer Concourse Hotel
Arlington, Virginia
(703) 418-6800**

TOPICS TO INCLUDE:

TRAINING INITIATIVES AT OPM

OPM: ACQUAINTING NEW AGENCY COORDINATORS WITH CO-OP

FEDERAL CO-OP AT THE TWO-YEAR COLLEGE

GUIDING MINORITY CO-OP STUDENTS THROUGH THE BUREAUCRACY

COMPETING WITH THE PRIVATE SECTOR

NETWORKING SESSION FOR AGENCY AND INSTITUTIONAL REPRESENTATIVES

STRATEGIES FOR ENHANCING SUPERVISION

THE ADULT CO-OP STUDENT IN THE FEDERAL GOVERNMENT

A CO-OP STUDENT PANEL

PARTICIPANTS MAY CHOOSE FROM A VARIETY OF CONCURRENT SESSIONS

For more information contact:

Mr. Roy T. Gregg
Southeastern Training Center
College of Continuing Studies
University of Alabama
P.O. Box 870388
Tuscaloosa, AL 35487-0388
(205) 348-6422

Ms. Virginia Pettett
Univ. of Maryland,
University College
Undergraduate Programs
College Park, MD 20742
(301) 985-7780

Ms. Donna Daylor
Northeastern University
Center for Co-op Education
503 Stearns Center
360 Huntington Avenue
Boston, MA 02115
(617) 437-3774

SCREENED
FOIA # 60048
(URTS 16444)
By: NARA (RD-F)
Date: 2/6/2019

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: SCHLESINGER, STEVEN R., DIRECTOR, OPD
To: AG. ODD: NONE
Date Received: 12-09-91 Date Due: NONE Control #: X91120920326
Subject & Date
12-06-91 MEMO PROVIDING A REVIEW OF THE GRAMM CRIME BILL
PROVISIONS ON APPROPRIATE JUDICIAL REMEDIES FOR PRISON
CROWDING.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;	12-09-91	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1
	INTERIM BY:			DATE:		OPR:
	Sig. For:	NONE		Date Released:		MAU

Remarks
INFO CC: DAG.
(1) FOR INFORMATION.

Other Remarks:

AGM 12-09-91
FILE: OFFICE OF POLICY DEVELOPMENT (OPD)

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

6 Dec 91



U.S. Department of Justice
Office of Policy Development

RECEIVED
DEPARTMENT OF JUSTICE

Director

'91 DEC -9 A11:22

Washington, D.C. 20530

EXECUTIVE SECRETARIAT

December 6, 1991

MEMORANDUM

TO: William P. Barr
Attorney General

FROM: Steven R. Schlesinger
Director

SUBJECT: Gramm Crime Bill Provisions on Appropriate Judicial Remedies for Prison Crowding

In our meeting of November 27, 1991, you asked that I review the provisions of the Gramm crime bill ("The National Drug and Crime Emergency Act") dealing with appropriate judicial remedies for prison crowding; these provisions are attached.

Senator Gramm's goals are laudable; we certainly want the courts to take a less intrusive role in prison crowding cases than they have to this point. But the approach Gramm uses in his bill needs to be improved. First, Gramm wants to tell the courts that they cannot find that prison or jail crowding violates the Eighth Amendment unless an individual inmate proves that crowding causes the infliction of cruel and unusual punishment on the inmate. Although this reflects the appropriate understanding of Supreme Court precedent, not to mention sound public policy, this provision is problematic. As OLC and OPD agreed last year when responding to this bill, Congress cannot tell the courts how to interpret the Constitution. If it tries to do so -- even if it tells the courts to follow controlling Supreme Court precedents -- Congress is buying itself unnecessary trouble.

Second, Gramm tries to limit the equitable remedial relief (specifically, population caps) that courts can issue upon a finding that crowding is unconstitutional. Last year, OLC and OPD agreed that there is no constitutional impediment to this aspect of the Gramm proposal, but again this limit on relief is simply a restatement of the appropriate view under existing precedents. In fact, as argued in Attorney General Thornburgh's report to the President on prison crowding and court-ordered population caps, which was distributed at the Crime Summit, existing precedents support a more severe limit on equitable relief than contained in the Gramm bill (Executive Summary, p. iv):

First, the Supreme Court has held that a remedy must be narrowly tailored to fit the nature and extent of the

constitutional violation. Once the court has found specific constitutional violations under the foregoing analysis, its remedial authority is limited to ordering that the specific violations be cured. The court must order the least intrusive remedy, absent recalcitrance by the authorities in complying with previous narrower orders. A cap on inmate population may be ordered only if there is a showing that the imposition of a cap will result in curing the specific offending conditions; that is, there must be a causal connection between overcrowding and the existence of those conditions.

Second, the remedy must be designed to restore the inmates to the position they would have been in absent the violation. If an order capping population requires early release of inmates, it is doubtful that the order can be said to restore those inmates to incarceration under constitutional conditions; instead, the order effectively frees them from confinement.

Third, the Supreme Court requires that a remedy take into account the interests of state and local authorities in managing their own affairs, consistent with the Constitution. This requirement of "deference" applies especially strongly in the prison context, where the Court has said that the authorities are better able to run prisons than the courts, and that courts should leave prison management to the political branches of government. Population caps tend to interfere in the management of individual institutions and often in the management of entire prison systems. Caps significantly limit the discretion of prison officials in decisions on housing additional inmates; a cap in one institution often forces the shifting of prisoners to another institution, and sometimes even results in their early release.

Since the prison crowding report was issued, the Supreme Court has further narrowed the ability of prisoners to challenge the constitutionality of prison conditions (including crowding). In Wilson v. Seiter, 111 S. Ct. 2321 (1991) -- a case, incidentally, in which the Department argued against the narrow approach the Court ultimately followed -- the Court held that inmates in prison condition cases must show that prison officials were deliberately indifferent to those conditions. The Court further held that violations could not be found on the "totality of conditions" but rather had to be based on specific conditions that caused specific deprivations of essential human needs.

Thus, Gramm seems in a real sense to be trailing the Court. Indeed, the Court has already heard argument this Term in Rufo v. Inmates of Suffolk County Jail, in which it appears poised to make it easier for prisons and jails to obtain modifications of consent

decrees. Ed Himmelfarb and Brian Miller attended argument in the case, and, while oral argument often does not reflect the ultimate result in the case, they heard indications that the justices were at least contemplating a position far more favorable to prisons and jails than was advocated in the Department's amicus brief.

When I said earlier that Gramm's approach needed improvement, I meant that there was one concrete respect in which Gramm's bill could be made very helpful. The bill could declare the sense of the Congress that incarceration is an appropriate punishment despite prison overcrowding unless there is some specific condition of confinement that deprives inmates of an essential human need. The point here is that the courts have said that "cruel and unusual punishments" is defined by contemporary standards of decency. Obviously, a declaration by the elected representatives of the entire American people is entitled to considerable weight in determining contemporary standards. The Court seems to be headed in the distinctly correct direction, and this sense of the Congress might possibly give the Court additional support for its conclusions.

I have two other thoughts on Gramm's provision on court orders. First, I think that the congressional findings in section 101(b) are not well stated and should be rewritten. Second, § 3626(c), regarding reconsideration of court orders every two years, is a good idea and might be advisable no matter what happens with the rest of this section. But it should be rephrased something like this: "Any defendant may file a motion to reconsider the order in light of changed circumstances or on any ground permitted under Rule 60(b) of the Federal Rules of Civil Procedure. The motion may be made at any time. The court may conduct a hearing on the motion, and shall conduct such a hearing if the previous motion for reconsideration was filed more than two years prior to the date on which the current motion was filed."

1 (21 U.S.C. 801 et seq.), the Controlled Substances
2 Import and Export Act (21 U.S.C. 951 et seq.), or the
3 Maritime Drug Law Enforcement Act (46 U.S.C. App.
4 1901 et seq.), which involves the manufacture sale,
5 distribution, dispensing, importation, or exportation of,
6 or possession with intent to manufacture sell, distrib-
7 ute, or dispense, import, or export, a controlled
8 substance.

9 **TITLE I—ELIMINATION OF CRIME**
10 **WITHOUT PUNISHMENT**
11 **Subtitle A—National Drug and Crime**
12 **Emergency Policies**

13 **SEC. 101. JUDICIAL REMEDIES FOR PRISON CROWDING.**

14 (a) **PURPOSE.**—The purpose of this section is to provide
15 for reasonable and proper enforcement of the eighth amend-
16 ment.

17 (b) **FINDINGS.**—The Congress finds that—

18 (1) the Federal courts are unreasonably endanger-
19 ing the community by sweeping prison and jail cap
20 orders as a remedy for detention conditions that they
21 hold are in conflict with the eighth amendment; and

22 (2) eighth amendment holdings frequently are un-
23 justified because of the absence of a plaintiff inmate
24 who has proven that detention conditions inflict cruel
25 and unusual punishment of that inmate.

1 (c) AMENDMENT OF TITLE 18, UNITED STATES
2 CODE.—(1) Subchapter C of chapter 229 of part 2 of title
3 18, United States Code, is amended by adding at the end
4 thereof the following new section:

5 **“§ 3626. Appropriate remedies with respect to prison**
6 **crowding**

7 “(a)(1) A Federal court shall not hold prison or jail
8 crowding unconstitutional under the eighth amendment
9 except to the extent that an individual plaintiff inmate proves
10 that the crowding causes the infliction of cruel and unusual
11 punishment of that inmate.

12 “(2) The relief in a case described in paragraph (1) shall
13 extend no further than necessary to remove the conditions
14 that are causing the cruel and unusual punishment of the
15 plaintiff inmate.

16 “(b)(1) A Federal court shall not place an inmate ceiling
17 on any Federal, State, or local detention facility as an equita-
18 ble remedial measure for conditions that violate the eighth
19 amendment unless crowding is inflicting cruel and unusual
20 punishment on individual prisoners.

21 “(2) Federal judicial power to issue equitable relief other
22 than that described in paragraph (1), including the require-
23 ment of improved medical or health care and the imposition
24 of civil contempt fines or damages, where appropriate, shall
25 not be affected by paragraph (1).

1 “(c) Each Federal court order seeking to remedy an
 2 eighth amendment violation shall be reopened at the behest
 3 of a defendant for recommended alteration at a minimum of
 4 two-year intervals.

5 “(d) This section shall remain in effect during the Na-
 6 tional Drug and Crime Emergency declared in section 3(b)(1)
 7 of the National Drug and Crime Emergency Act, and shall
 8 expire on the date that is 5 years after the date of enactment
 9 of that Act.”.

10 (2) Section 3626 of title 18, United States Code, as
 11 added by paragraph (1), shall apply to all outstanding court
 12 orders on the date of enactment of this section. Any State or
 13 municipality shall be entitled to seek modification of any out-
 14 standing eighth amendment decree pursuant to that section.

15 (3) The table of sections for subchapter C of chapter 229
 16 of title 18, United States Code, is amended by adding at the
 17 end thereof the following new item:

“3626. Appropriate remedies with respect to prison crowding.”.

18 **SEC. 102. TEMPORARY PRISON FACILITIES AND EXPANDED**
 19 **CAPACITY.**

20 (a) **IN GENERAL.**—In order to remove violent criminals
 21 from the streets and protect the public safety, the Attorney
 22 General shall take such action as may be necessary to ensure
 23 that sufficient facilities exist to house individuals whom the
 24 courts have ordered incarcerated. During the National Drug
 25 and Crime Emergency declared in section 3(b)(1), these fa-

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: SCHLESINGER, STEVEN R., DIRECTOR, OPD

To: AG.

ODD: NONE

Date Received: 12-09-91 Date Due: NONE

Control #: X91120920325

Subject & Date

12-06-91 MEMO PROVIDING CRIME STATISTICS.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;	12-09-91	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1
	INTERIM BY:			DATE:		OPR:
	Sig. For:	NONE		Date Released:		MAU

Remarks

INFO CC: DAG.

(1) FOR INFORMATION.

Other Remarks:

KMM 12-09-91

FILE: OFFICE OF POLICY DEVELOPMENT (OPD)

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RECEIVED
DEPARTMENT OF JUSTICE

U.S. Department of Justice
Office of Policy Development

'91 DEC -9 AM 12:22

Director

Washington, D.C. 20530

EXECUTIVE SECRETARIAT

December 6, 1991

MEMORANDUM

TO: William P. Barr
Attorney General

FROM: Steven R. Schlesinger *SR*
Director

SUBJECT: Statistics You Requested.

Are these the crime statistics you asked for in our November 27, 1991 meeting. If not, please advise as to what I should provide.

	<u>Number of FBI crimes</u>				<u>Percent Change</u>		
	<u>1960</u>	<u>1970</u>	<u>1980</u>	<u>1990</u>	1960 VS <u>1970</u>	1970 VS <u>1980</u>	1980 VS <u>1990</u>
MURDER	9060	16000	23040	23440	+77%	+44%	+2%
RAPE	17130	37990	82990	102560	+122	+118	+24
ROBBERY	107570	349860	565840	639270	+225	+62	+13
AGG ASLT	153140	334970	672650	1054860	+119	+101	+57

	<u>FBI crime rates per 100,000 pop</u>				1960 VS <u>1970</u>	1970 VS <u>1980</u>	1980 VS <u>1990</u>
	<u>1960</u>	<u>1970</u>	<u>1980</u>	<u>1990</u>			
MURDER	5.1	7.9	10.2	9.4	+55%	+29%	-8%
RAPE	9.5	18.7	36.8	41.2	+97	+97	+12
ROBBERY	60.0	172.1	251.1	257.0	+187	+46	+2
AGG ASLT	85.4	164.8	298.5	424.1	+93	+81	+42

	<u>State and Federal imprisonment rate per 100,000 population</u>				1960 VS <u>1970</u>	1970 VS <u>1980</u>	1980 VS <u>1990</u>
	<u>1960</u>	<u>1970</u>	<u>1980</u>	<u>1990</u>			
	117	96	138	285*	-18%	+44%	+107%

*Estimated using a prison population custody count of 707,734 and resident population of 248,239,500.

June 4, 1991

MEMORANDUM

TO: William P. Barr
Deputy Attorney General

FROM: Steven R. Schlesinger

SUBJECT: Key Facts on Recidivism in the United States

The following facts on recidivism are derived from key BJS studies and reports. (Most of the data below are from a massive study tracking prisoners released from state prisons in 1983. This is the most comprehensive and extensive multi-state recidivism study ever conducted.) To the best of my knowledge, none of the findings reported here has ever been challenged by other researchers. In fact, other smaller studies, such as state-wide surveys, generally reach quite similar conclusions.

BJS Special Report, Recidivism of Prisoners Released in 1983, April 1989, NCJ-116261:

1. Of the 108,580 persons released from prison in eleven large-to-medium size states in 1983, 63% were rearrested for a felony or serious misdemeanor within three years; 47% were reconvicted; and 41% were returned to prison or jail. (The states included in this study accounted for 57% of state prisoners released in the nation during 1983.)
2. The 68,000 released prisoners who were rearrested within the three-year followup period were charged with more than 326,000 new felonies and serious misdemeanors, including approximately 50,000 violent crimes (17,000 robberies and 23,000 assaults) and 46,000 drug offenses. The rearrested former prisoners averaged 4.8 new charges within the three year period.
3. Offenses charged to the 108,580 prisoners released in 1983 both before they went to prison and during the three years after release totaled 1.7 million, including 265,000 violent crime charges (14,500 homicides), 221,000 burglary charges, 28,000 drug trafficking charges, and 68,000 weapons violations charges.
4. Approximately 5% of the prisoners released in 1983 had been charged with 45 or more offenses before and after their release; more than one-fourth (26%) had been charged with at least 20 offenses; more than half (56%) with at least 10; and more than four-fifths (81%) with at least 5.
5. Of those released from prison in 1983, more than one-fourth (26%) had been arrested as adults at least 11 times, and three-fifths (60%) had been arrested at least 5 times previously.
6. 94% of the young prisoners (18-24 years old) with long prior records (11 or more prior adult arrests) were rearrested within three years.

BJS Special Report, Profile of State Prison Inmates. 1986, January 1988, NCJ-109926:

7. A study of those serving sentences in state prisons in 1986 found that over four-fifths (82%) previously had been sentenced to probation or incarceration (juvenile or adult). The same study found that nearly one-fifth (19%) of the inmates had at least seven convictions (juvenile or adult); nearly half (45%) at least four; and over three-fifths (62%) had at least three. Considering just prior incarcerations, 10% had at least seven; more than one-fourth (27%) had at least four; and two-fifths (40%) had at least three.
8. Of those in state prisons in 1986, 55% were serving time for violent offenses, and another 11% were serving time for nonviolent offenses but had previously been convicted of a violent crime.

Thus, two-thirds (66%) of state prison inmates in 1986 had a conviction for at least one violent crime.

BJS Special Report, Examining Recidivism, February 1985, NCJ-96501:

9. A study of those entering state prisons in 1979 found that 28% were "avertable recidivists." In other words, at the time of their 1979 admission, they would have been in prison for a prior offense had they served their maximum sentence.

DOJ EXECUTIVE SECRETARIAT CROSS-REFERENCE RECORD



CONTROL NUMBER: 91121820770

SCHLESINGER, STEVEN R DIR OPD

THE ENTIRE DOCUMENT PACKET FOR THE CONTROLLED
CORRESPONDENCE INDICATED BY THE ABOVE EX.SEC.
CONTROL NUMBER HAS BEEN FILED IN THE FOLLOWING
PRIMARY FILE LOCATION WITHIN THE SUBJECT FILES
OF THE ATTORNEY GENERAL.

PRIMARY FILE: REFORMS/CIVIL JUSTICE SYSTEM

17 Dec 91

OFFICE OF POLICY DEVELOPMENT

17 Dec 91

SCREENED
FOIA # 60048
(URTS 16444)
By: NARA (RD-F)
Date: 2/6/2019

c6

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: RICHARDSON, CONG. BILL

To: AG.

ODD: 09-24-91

Date Received: 08-19-19 Date Due: 09-24-91 Control #: X91081915166

Subject & Date

08-08-91 LETTER ON BEHALF OF CHARLES W. TURNER, [REDACTED] - - - - - FOIA(b)(7) - (C)
WHO IS REQUESTING A PRESIDENTIAL PARDON. HE HAS COMPLETED
HIS PROBATION SENTENCE.

NO PRIOR RECORD IN EXEC SEC.

	Referred To:	Date:		Referred To:	Date:	
(1)	OPA; LOVE	08-19-91	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			2
	INTERIM BY:			DATE:		OPR:
	Sig. For: OPA			Date Released: 08-27-91		MLN

Remarks

CC: OLA. ORIGINAL TO AG FILES.

(1) RETURN CONTROL SHEET AND COPY OF RESPONSE TO EXEC SEC,
ROOM 4400AA.

08-27-91: OPA RESPONDED BY LETTER DATED 08-26-91. COPY TO
AG FILES. (MAU)

Other Remarks:

FILE: PARDONS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

c6
8 August 91



U.S. Department of Justice

Pardon Attorney

Washington, DC 20530

AUG 26 1991

The Honorable Bill Richardson
Member of Congress
San Miguel County Courthouse
Post Office 1805
Las Vegas, New Mexico 87701

Dear Congressman Richardson:

I have been asked to respond to your letter of August 8, 1991 to the former Attorney General enclosing a copy of a letter from your constituent Charles W. Turner, who requests your assistance in obtaining information concerning the status of his application for pardon.

Mr. Turner's application for pardon was carefully considered in the Department of Justice and at the White House before a final decision was made on June 25, 1991, that it should be denied. As a matter of well-established policy, the specific reasons for the decision in a clemency matter are not disclosed. The bases on which a pardon is usually granted include the demonstrated good conduct of the applicant for a significant period of time after conviction and completion of sentence. Many other factors enter into the determination, however, including the seriousness of the offense for which pardon is sought and the petitioner's acceptance of responsibility for his criminal conduct.

Mr. Turner's interest in a presidential pardon is appreciated and he may reapply in June 1993, two years from the date his application was denied, if new information or changed circumstances would support favorable action.

I appreciate your interest in this matter.

Sincerely,

Margaret C. Love

Margaret C. Love
Pardon Attorney

X 910819151

BILL RICHARDSON
3D.DISTRICT, NEW MEXICO

COMMITTEES:
ENERGY AND COMMERCE
INTERIOR AND INSULAR AFFAIRS
HELSINKI COMMISSION
ON HUMAN RIGHTS
SELECT COMMITTEE ON INTELLIGENCE
SELECT COMMITTEE ON AGING



Congress of the United States
House of Representatives
Washington, DC 20515

August 8, 1991

The Honorable Dick Thornburgh
Dept. of Justice
10th Street and Constitution Avenue Northwest
Room 4400
Washington, DC 20530

Re: Mr. Charles W. Turner,
Dear The Honorable Thornburgh:

One of my constituents, Mr. Charles W. Turner has contacted me for assistance on a problem with which the Department of Justice - Attorney General of the United States might be able to help. I have enclosed all the information which we have been given on this particular case for your perusal and review.

Mr. Turner and I are anxious to resolve this problem as soon as possible. Because of this, your prompt consideration would be most appreciated. If you have any questions, please contact Rebecca Montoya in my Las Vegas Office.

Sincerely yours,

BILL RICHARDSON
Member of Congress

BR/rpm
L2Ab

WASHINGTON:
332 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6190

SANTA FE:
548 AGUA FRIA
SANTA FE, NM 87501
(505) 988-7230

GALLUP:
GALLUP CITY HALL
GALLUP, NM 87301
(505) 722-6522

LAS VEGAS:
SAN MIGUEL COUNTY COURTHOUSE
P.O. Box 1805
LAS VEGAS, NM 87701
(505) 425-7270

EXECUTIVE SECRETARIAT

91 AUG 19 P2:28

RECEIVED
DEPARTMENT OF JUSTICE

FOIA(b)(6)

June 25, 1991

JUL 15 1991

RECEIVED - DIST

JUL 04 1991

WASHINGTON OFFICE

Congressman Bill Richardson
332 Cannon Building
U.S. House of Representatives
Washington, D.C. 20515

FOIA(b)(7) - (C)

Ref: Presidential Pardon
Western Docket Nbr CR '83-54
Dated April 21, 1983

SSN [REDACTED]

Dear Congressman Richardson:

My name is Charles Willis Turner. I was born in [REDACTED] in [REDACTED]. I have been married to my wife, [REDACTED] since 1960. I have lived in [REDACTED].

I am writing to you to see if you could assist me in obtaining a Presidential Pardon.

I was employed part time for Gate City Savings & Loan in Raton, New Mexico. In November, 1982 I was involved in an act, in the now defunct Savings & Loan, of money being transferred into my savings account with out my remembering the incident. Due to a disabling job related accident on June 12, 1972, I am now and have been only [REDACTED] I was convicted of embezzlement \$1000.00 dollars. There was no loss of moneys to the Savings and Loan Company.

I was giving a sentence of 200 community service hours, and to be on probation for three (3) years. All of this has been completed. I was released from the U.S. Probation Office in Santa Fe, New Mexico on April 21, 1986.

In May 1990, I requested the necessary forms for a Presidential Pardon. All of the required forms have been filled out and returned to the U.S. Department of Justice, Office of the Pardon Attorney as of September 1990.

Sir, I am truly sorry for my actions, and have tried to live my life in a upright manner that has been called exemplary, trying to be a roll model for others persons.

For the past 20 years I have assisted in a boys program, that is sponsored by the Assemblies of God Churches, called Royal Rangers. This program is some what like the Boy Scouts program.

I wish to be granted a Presidential Pardon so that I may be able to vote in the upcoming Elections, and other elections that will be held in the future. I wish to regain my franchise rights

as an individual. A pardon that would restore all of my rights.

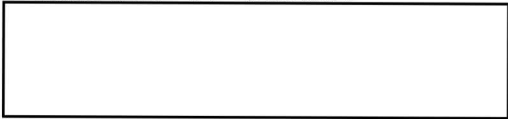
If you are able to assist me in obtaining this goal, I would greatly appreciate it. If you have need for any additional information, please let me know what you need so that I may get it to you as quickly as possible.

Sincerely;



Charles W. Turner

FOIA(b)(7) - (C)



Enclosure

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF NEW MEXICO

FOIA(b)(7) - (C)

To Charles W. Turner

Docket No. CR 83-54

Address

In accordance with authority conferred by the United States Probation Law, you have been placed on probation this date, April 22, 1983, for a period of three (3) years by the Hon. Juan G. Burciaga, United States District Judge, sitting in and for this District Court at Albuquerque, NM

CONDITIONS OF PROBATION

It is the order of the Court that you shall comply with the following conditions of probation:

- (1) You shall refrain from violation of any law (federal, state, and local). You shall get in touch immediately with your probation officer if arrested or questioned by a law-enforcement officer.
- (2) You shall associate only with law-abiding persons and maintain reasonable hours.
- (3) You shall work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability. When out of work you shall notify your probation officer at once. You shall consult him prior to job changes.
- (4) You shall not leave the judicial district without permission of the probation officer.
- (5) You shall notify your probation officer immediately of any change in your place of residence.
- (6) You shall follow the probation officer's instructions.
- (7) You shall report to the probation officer as directed.

The special conditions ordered by the Court are as follows:

- (1) Perform 200 hours of community service at the direction of the Probation Office to be completed during the first two (2) years of probation.

FOIA(b)(6)

I understand that the Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

I have read or had read to me the above conditions of probation. I fully understand them and I will abide by them.

(Signed) Charles W. Turner
Probationer
Charles W. Turner

4-22-83
Date

You will report as follows:

Between the 1st and 5th day of each month; or as otherwise instructed by Probation Officer

James A. Havelcharr
U. S. Probation Officer

4-22-83
Date

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: HELMS, SENATOR JESSE
To: JOHN SUNUNU WITH A COPY TO THE AG. ODD: NONE
Date Received: 10-04-91 Date Due: NONE Control #: X91100417291
Subject & Date
09-26-91 COPY OF A LETTER TO JOHN SUNUNU, CHIEF OF STAFF,
THE WHITE HOUSE, REQUESTING A MEETING WITH A DELEGATION
FROM NORTH CAROLINA TO DISCUSS A POSSIBLE PARDON FOR
ROBERT EDWARD LEIGH BARNHILL, JR. ATTACHMENTS.

	Referred To:	Date:	Referred To:	Date:	
(1)	OPA;LOVE	10-04-91	(5)		W/IN:
(2)			(6)		PRTY:
(3)			(7)		1
(4)			(8)		OPR:
	INTERIM BY:		DATE:		MLN
	Sig. For: NONE		Date Released:		

Remarks
EXEC SEC SENT COPIES TO OAG, DAG, ODAG (STEVENS),
OLA (REINHARDT & WOLF), EOA, BOP, USP. COPY INDICATED
FOR OPA (LOVE).
(1) FOR APPROPRIATE HANDLING.

Other Remarks:

OLA ATTORNEY: DAVID WOLF (514-2078)
GJT/MFS 10/4/91
FILE: PARDONS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

United States Senate

WASHINGTON, DC 20510-3301

September 26, 1991

The Honorable John H. Sununu
Chief of Staff
The White House
Washington, D.C. 20500

Dear John:

At Tuesday's Republican Policy Luncheon you agreed that you would meet with a delegation from North Carolina concerning a pardon for Robert Edward Leigh Barnhill, Jr., whose Docket Number is C-CR-80-94.

If you will briefly examine the attached file left with me yesterday by Jack Bailey of Rocky Mount, you will note that Barnhill has significant and distinguished support --

Governor Martin

Lieutenant Governor Jim Gardner

Federal Judge Woodrow W. Jones (who tried the case)

Jack Hawke, North Carolina's G.O.P. Chairman

Jack Laughery, N.C. National G.O.P. Committeeman

Jim Trotter, the Governor's legal counsel.

We could load you down with a two-foot stack of letters and petitions from North Carolinians in every walk of life, but we won't do that to you.

I have talked with The Honorable Margaret C. Love, Pardon Attorney at the Department of Justice -- who, incidentally, is a gracious and helpful lady. I discussed the Barnhill case with her and asked her if she would be willing to attend a meeting with you. She said she would be happy to attend. I did not ask her for a commitment of any kind and she volunteered none. I believe it would be helpful to have her there.

RECEIVED
DEPARTMENT OF JUSTICE
91 OCT -4 10:41

Governor Sununu
September 26, 1991
Page Two

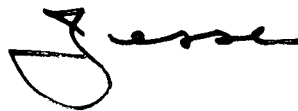
Also, it would be great if Boyden Gray could sit in.

Would you see if you can set aside a few minutes for the delegation to sit down with you? It will not be a long, drawn-out affair.

Because of my radiation treatments, I'll be in Washington during the upcoming recess of the Senate; therefore I will be available any afternoon of your choosing. (I have to "do my thing" at Bethesda each morning.)

Many thanks, John, for your interest and cooperation.

Sincerely,



JESSE HELMS:pd

✓BC: The Honorable Margaret C. Love

*Hope you don't mind.
Thanks again for talking
with me.*

J. C. D. Bailey
Post Office Box 312
Rocky Mount, North Carolina 27802
(919) 985-1100 • FAX (919) 985-3480

September 23, 1991

The Honorable Jesse Helms
United States Senator
403 Dirksen Building
Washington, D. C. 20510

Re: Request for Presidential Pardon
Robert E. Barnhill, Jr.

Dear Jesse:

As discussed in our recent telephone conversation, it is the desire of many friends of Bob Barnhill that your office be requested to lend all possible assistance in obtaining a full Presidential pardon for Bob.

Enclosed are letters received from Governor Martin and from Jack Hawke, Chairman of the North Carolina Republican Party, expressing their support of our efforts.

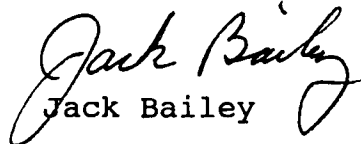
Jack Hawke has offered to come to Washington with the group of Barnhill supporters, which would also include Lieutenant Governor Jim Gardner; Jim Trotter, Special Counsel to Governor Martin; and Jack Laughery, National Republican Committeeman.

All of these friends have agreed to accompany us to visit Mr. Sununu if you are able to get him to be so kind as to grant us an audience.

Also enclosed are copies of letter from The Honorable Woodrow W. Jones, who was the judge presiding when the case was first heard, and three Character Affidavits, all prepared for the previous petition.

This letter and the enclosures will be hand-delivered to you while I am in Washington on September 25, and I look forward to seeing you at 4:00 p.m. on that date, as has been confirmed by Frances Marcus of your office.

Sincerely,


Jack Bailey

JCDB:gh
Enclosures



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
RALEIGH 27603-8001

JAMES G. MARTIN
GOVERNOR

September 18, 1991

Mr. J. C. D. Bailey
P.O. Box 312
Rocky Mount, North Carolina 27802

Re: Robert E. Barnhill, Jr.

Dear Jack:

I understand from my General Counsel, Jim Trotter, that you and Senator Helms are arranging a meeting at the White House to discuss Bob Barnhill's petition for a pardon. I fully support Bob's petition and would like to be a part of the group. However, my scheduling office advises that because the meeting date has not been set and I will be away for a time this fall on a trade mission to the Far East, I will not be able to schedule time to do so in advance of the meeting. If things work out so I can join the group, I will do so. If I am not able to go Jim Trotter will attend the meeting and speak for me.

I feel strongly that Bob's petition for a presidential pardon is meritorious and that President Bush should grant it. Bob acknowledges that his participation in the highway construction contract bid rigging in the early 1970s was wrong. But he has paid the price for doing so and has worked hard in his community and in his State to make amends for his wrongdoing.

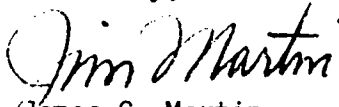
A pardon would mean little to Bob from a material standpoint. From a spiritual standpoint it would mean everything to him. Bob's sole reason for applying for the pardon is so he can know that his country has forgiven him for his transgression. He seeks the peace of mind that comes with absolution.

As Governor I have been sparing in granting pardons and believe that they should be granted only in exceptional cases. Bob's case falls into that category. If Bob's crime had been against the State of North

Mr. J. C. D. Bailey
September 18, 1991
Page 2

Carolina, I would give him the pardon that he seeks. But his crime wasn't. It was against the United States. All I can do as Governor is to add my endorsement to the endorsements of the others who feel that Bob should have the pardon that he so sincerely wants.

Sincerely,


James G. Martin

JGM/sta

CHAIRMAN
R. Jack Hawke



THE REPUBLICAN PARTY

North Carolina's Conservative Voice

VICE CHAIRMAN
Jane B. Rouse
FINANCE CHAIRMAN
Steve Stroud
SECRETARY
Jan Grube
TREASURER
John Carrington

Mr. J. C. D. Bailey
P.O. Box 312
Rocky Mount, NC 27802

September 20, 1991

Dear Jack:

I am happy to endorse the effort to obtain a Presidential pardon for Bob Barnhill. The many people who know Bob appreciate your efforts on his behalf. I am ready and available to join with you and other friends in going to Washington to meet with Sen. Helms and White House representatives.


It should be clearly understood that my support is not based on political considerations as Chairman of the North Carolina Republican Party. Mr. Barnhill may not even be a Republican as I have not even checked his party affiliation. He is not a current contributor to the NCGOP. He is, however, a patriot who loves his state and country. He is a civic leader and a gentleman who is held in high esteem by his associates and those within his community.

There is no question that Mr. Barnhill has paid a heavy price for his conviction. If the purpose was to punish, then the purpose has been accomplished ten-fold. If the purpose was to rehabilitate, then this case is a shining success. If the purpose was deterrence, then the message has been delivered loud and clear to others in the construction business.

Mr. Barnhill has paid his debt to society. He is a sound conservative who supports the fundamentals that keep our country strong and free. He is a family man who has nurtured a family that contributes to the community and state. He is a civic leader who gives of his time and money to help others.

Our forefathers saw a situation where justice is best served by issuing a pardon. They created that ability to address a situation like that of Bob Barnhill. I only hope we have the ability to see justice done.

Sincerely,


R. Jack Hawke,
Chairman

RJH:ew

AMERICAN
OVERSIGHT

1410 Hillsborough Street ★ Post Office Box 12905 ★ Raleigh, North Carolina 27605
919-828-6423 919-828-1839 1-800-662-8849

Political contributions are not tax deductible

NARA-18-1003-A-000764

Woodrow W. Jones
Chief Judge

United States District Court
Western District of North Carolina
Judge's Chambers
Rutherfordton 28139

July 31, 1989

Ms. Suellen W. Pierce
Office of United States Attorney
Room 260 Federal Building
401 West Trade Street
Charlotte, North Carolina 28202

Re: Robert Edward Leigh Barnhill, Jr.
Docket Number C-CR-80-94
Applicant for Pardon

Dear Ms. Pierce:

I have your letter of July 27, 1989 requesting my comments and recommendations regarding Mr. Barnhill's application for a pardon. I remember this matter and under all of the circumstances of this case I feel that I should recommend clemency. Therefore, I recommend favorable action on Mr. Barnhill's application for a pardon.

With best wishes, I am

Sincerely yours,

A handwritten signature in black ink, appearing to read "Woodrow W. Jones", with a stylized flourish at the end.

Woodrow W. Jones

UNITED STATES
DEPARTMENT OF JUSTICE

CHARACTER AFFIDAVIT
ON BEHALF OF

R. E. Barnhill, Jr.

(print or type name of petitioner)

In support of the application of the above petitioner to the President of the United States for pardon,

I, Dr. E. Lavelle Waters, Jr., residing at 1010 S. Howard Ave. Tarboro, NC 27886
(print or type name of affiant) No. Street City State Zip Code

whose occupation is minister,
certify that I have personally known the petitioner for 3 years. Except as otherwise indicated below,
he has conducted himself, since his conviction, in a moral and law-abiding manner. My knowledge of petitioner's
reputation, conduct and activities, including whether he has been arrested or had any other trouble with public
authorities and has been steadily employed, is as follows: Mr. Barnhill's reputation and conduct is
beyond reproach. He has been very active in community service, including the establish-
ment of a community outreach ministry. He has personally donated his service, equipment,
financial support, and material for the construction of a building to house the ministry.
He has also participated in the establishing of a center for breast cancer research in
Chapel Hill, NC. I know him to be a generous person to those who are less fortunate and
to specific community needs. To my knowledge he had no prior arrest or any since the
incident for which he was convicted.

I do solemnly swear that the foregoing information is true and correct to the best of my knowledge and belief.

Subscribed and sworn to before me this 6 day of June, 19 88.

E. Lavelle Waters, Jr.
(signature of affiant)

Lynnda L. Smith
Notary Public.

UNITED STATES
DEPARTMENT OF JUSTICE

CHARACTER AFFIDAVIT
ON BEHALF OF

ROBERT E. BARNHILL, JR.
(print or type name of petitioner)

In support of the application of the above petitioner to the President of the United States for pardon,

I, George M. Fountain, residing at 1004 St. Andrew Street, Tarboro, N. C. 27886,
(print or type name of affiant) No. Street City State Zip Code

whose occupation is Judge of Superior Court of North Carolina, Retired,
certify that I have personally known the petitioner for 25 years. Except as otherwise indicated below,
he has conducted himself, since his conviction, in a moral and law-abiding manner. My knowledge of petitioner's
reputation, conduct and activities, including whether he has been arrested or had any other trouble with public
authorities and has been steadily employed, is as follows: He has been active in the business life of

his community as an officer of Barnhill Contracting Company. He has been in regular
attendance and an active member of First Baptist Church of Tarboro. He is a member of
the North Carolina Wildlife Commission. He is a person of excellent character and
reputation. He has had no other trouble with the authorities, and as stated above, he
has been steadily employed since he was in college.

I do solemnly swear that the foregoing information is true and correct to the best of my knowledge and belief.

George M. Fountain
(signature of affiant)

Subscribed and sworn to before me this 9th day of June, 19 88.

My Commission expires March 11, 1992

Patricia R. Lancaster
Notary Public.

UNITED STATES
DEPARTMENT OF JUSTICE

CHARACTER AFFIDAVIT
ON BEHALF OF

Robert E. Barnhill, Jr.

(print or type name of petitioner)

In support of the application of the above petitioner to the President of the United States for pardon,

I, Moses A. Ray, residing at 704 Panola Street - Tarboro, N. C. 27886
(print or type name of affiant) No. Street City State Zip Code

whose occupation is Dentist and Mayor of Tarboro, N. C.,
certify that I have personally known the petitioner for 20 years. Except as otherwise indicated below,
he has conducted himself, since his conviction, in a moral and law-abiding manner. My knowledge of petitioner's
reputation, conduct and activities, including whether he has been arrested or had any other trouble with public
authorities and has been steadily employed, is as follows: The reputation of Robert E. Barnhill,

Jr. is beyond reproach. He is undoubtedly a law abiding citizen of Tarboro

and Edgecombe County. I have observed his activities as a leader in rais-

ing \$550,000. which insured our success in securing an industry. His

devoted, unusual efforts in attempting to assist in the solution of a

controversial school merger issue in our area is well noted. Bob Barnhill,

Jr. has been nominated to receive the coveted 1987 Volunteer Award given

by the N. C. Industrial Developers Association. He is a deserving young
man, a definite asset to our town, county and state.

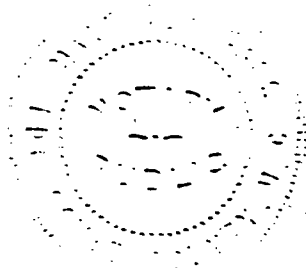
I do solemnly swear that the foregoing information is true and correct to the best of my knowledge and belief.

Moses A. Ray
(signature of affiant)

Subscribed and sworn to before me this 2nd day of June, 19 88.

Mary S. Hagans
Notary Public.

My Commission Expires March 22, 1993



C

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: SARA, MARTIN N., PARK RIDGE, IL
To: AG. ODD: 11-04-91
Date Received: 10-18-91 Date Due: 11-04-91 Control #: X91102117993
Subject & Date
10-15-91 LETTER (FAX COPY) REQUESTING A PARDON FOR
DR. JAY H. LEHR, FORMER EXECUTIVE DIRECTOR OF THE NATIONAL
WATER WELL ASSOCIATION. DR. LEHR WAS SENTENCED TO SIX
MONTHS IN JAIL AND FINED \$25,000 FOR DOCUMENTATION
IRREGULARITIES ON A U.S. EPA CONTRACT. ALSO REQUESTS THAT
DR. LEHR'S JAIL SENTENCE BE COMMUTED.

	Referred To:	Date:		Referred To:	Date:	
(1)	OPA;LOVE	10-21-91	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1Z
	INTERIM BY:			DATE:		OPR:
	Sig. For: OPA			Date Released: 11-05-91		MAU

Remarks
INFO CC: OAG, DAG.
(1) RETURN THIS CONTROL SHEET WITH A COPY OF THE RESPONSE TO
EXEC. SEC., ROOM 4400-AA.
11-05-91. OPA REPLIED BY LETTER DATED 11-04-91. COPY TO AG
FILES. (LH)

Other Remarks:

JAS 10-21-91
FILE: PARDONS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY



U.S. Department of Justice

Pardon Attorney

Washington, DC 20530

NOV 4 1991

Mr. Martin N. Sara
315 Grand Boulevard
Park Ridge, Illinois 60068

Dear Mr. Sara:

This responds to your letters of October 15, 1991 to the President and the Acting Attorney General requesting executive clemency for Dr. Jay H. Lehr, who is serving six months' imprisonment for making false statements to the Environmental Protection Agency.

Executive clemency for one convicted of a federal offense is considered only upon formal application made by the individual who has been convicted. See 28 Code of Federal Regulations Section 1.1. To date, Dr. Lehr has made no such application. Should he do so, you may be assured that the application will receive careful consideration.

Thank you for writing to the President and the Acting Attorney General.

Sincerely,

Margaret C. Love
Margaret C. Love
Pardon Attorney

X91102117993

RECEIVED
DEPARTMENT OF JUSTICE

'91 OCT 18 A11:24

EXECUTIVE SECRETARIAT

October 15, 1991

Mr. William P. Barr
Acting Attorney General of the United States
Office of the Attorney General
10th and Constitution Avenue
Washington, DC 20530

Subject: Request for Pardon of Dr. Jay H. Lehr, former Executive Director of the National Water Well Association.

Dear Mr. Barr:

Dr. Jay H. Lehr, former Executive Director of the National Water Well Association (NWWA), has been sentenced in Columbus, Ohio, in a federal court under Judge George Smith, to six months in jail and fined \$25,000 for documentation irregularities on a U.S. EPA contract. Dr. Lehr has been assigned to the Robert F. Kennedy Center in Morgantown, West Virginia beginning Monday October 21, 1991.

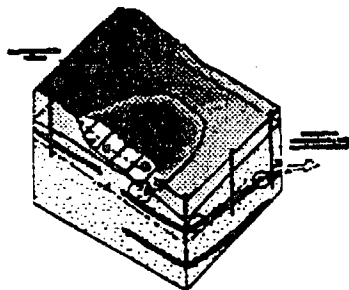
Dr. Jay Lehr, 54, is the most frequently quoted authority on ground water hydrology and hydrogeology in America. As the past Executive Director of the National Water Well Association, he was in his 25th year as principal spokesman for the nation's water systems industry. Under his direction, NWWA had grown from a trade association to a major non-profit research and education institute with more than 23,000 members. Dr. Lehr has served as a consultant to government agencies and the United Nations, been a member of the chaired federal committees, and has testified before House and Senate committees on water supply and pollution legislation on 22 occasions. He has authored eight books for both the public and private sectors and contributed over 250 articles to scientific and technical journals. Dr. Lehr's work with the education and training of groundwater scientists has helped develop an entire generation of professionals that are actively performing groundwater studies to protect human health and the environment, as well as to locate new sources of water for our country.

As a groundwater geologist and active member of the NWWA and the Association of Engineering Geologists, I am expressing the feelings of thousands of scientists and engineers in the United States: In recognition of Dr. Lehr's work for the science and for the industry, we would like to request that his jail sentence be commuted. The loss of his position at NWWA, which he has held for over 25 years, the heavy fine, and the professional disgrace are punishment enough.

Sincerely,



Martin N. Sara
315 Grand Boulevard
Park Ridge, IL 60068
(W) 708/572-3070
(H) 708/696-2549



The Fax on Ground-water

Our Fax # is (708) 218-1556. If you have problems receiving this FAX, please contact us at (708) 572-2951.

Date: 10/17/91

To: William P. Barr, Acting Attorney General

From: Martin N. Sara

of Pages 2 (Including cover page)

Re: _____

Waste Management of North America
3003 Butterfield Road
Oak Brook, IL 60521

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: McCLAUGHRY, JOHN, STATE SEN., CONCORD, VT
To: AG. ODD: 12-09-91
Date Received: 11-22-91 Date Due: 12-27-91 Control #: X91112219590
Subject & Date

11-19-91 LETTER REGARDING THE PLIGHT OF JOHN POSZGAI, A
HUNGARIAN IMMIGRANT WHO IS CURRENTLY SERVING A PRISON TERM
FOR CLEANING UP 14 ACRES OF MORRISTOWN, PA, WITHOUT GETTING
PRIOR APPROVAL OF ENVIRONMENTAL AGENCIES. STATES THAT
MR. POSZGAI SHOULD BE GRANTED A PARDON, BUT FEELS THAT THE
PARDON ATTORNEY WILL NOT RECOMMEND HIM FOR ONE BECAUSE OF
THE EFFORTS DOJ PUT INTO THE CASE AGAINST HIM. ENCLOSURES A
COPY OF HIS LETTER TO WHITE HOUSE CHIEF OF STAFF SUNUNU. **

Referred To:	Date:	Referred To:	Date:	
(1) OPA;LOVE	11-22-91	(5)		W/IN:
(2)		(6)		PRTY:
(3)		(7)		1Z
(4)		(8)		OPR:
INTERIM BY:		DATE:		MAU
Sig. For: OPA		Date Released: 01-02-92		

Remarks

** SEE EXEC. SEC. 91072313465 AND 90111919064 - CONTROL
SHEETS ATTACHED.

INFO CC: OAG, ENR, OLS.

(1) RETURN THIS CONTROL SHEET WITH A COPY OF THE RESPONSE TO
EXEC. SEC., ROOM 4400-AA.
12-09-91. OPA REQUESTED AN EXTENSION FROM 12-09-91 TO

Other Remarks:

12-16-91. AWAITING FOR MORE INFORMATION FROM THE COURT. (LH)
12-19-91: PER OPA, DD EXT FROM 12-16-91 TO 12-27-91 - NEEDS
ADDITIONAL INFO FROM COURT. (MAU)
01-02-92 OPA REPLIED BY LETTER DATED 12-24-91. (TJ)

FILE: PARDONS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

12/19/91



U.S. Department of Justice

Pardon Attorney

Washington, D.C. 20530

December 24, 1991

The Honorable John McClaughry
Vermont State Senate
Montpelier, Vermont 05602

Dear Senator McClaughry:

This is in response to your letter of November 19, 1991 to the Attorney General requesting executive clemency for John Pozsgai.

Please be assured that Mr. Pozsgai's application is under active consideration. Your letter will be helpful in the review of his case and I have directed that it be made a part of his clemency file.

Your continuing interest in this matter is appreciated.

Sincerely,

Margaret C. Love
Pardon Attorney

X91112219590

STATE OF VERMONT



Senator John McClaughry
Caledonia-Orange District
Concord, VT 05824
(802) 695-2555

Senate Chambers
Montpelier, VT 05602
1-800-322-5616
(802) 828-2228

RECEIVED
DEPARTMENT OF JUSTICE

'91 NOV 22 AIO:56

November 19, 1991

EXECUTIVE SECRETARIAT

Hon. William Barr
Attorney General
Dept of Justice
Washington DC 20530

Dear Mr. Attorney General:

Congratulations on your nomination to the Cabinet. I take some vicarious pleasure whenever a veteran of the Reagan Office of Policy Development makes good in later life. (All too few have.) (I am a very close friend of Mike Uhlmann's and was his colleague in OPD in 1981-2).

I'm writing to call your attention to the plight of John Poszgai, the Hungarian immigrant now serving time in Federal penitentiary for the heinous crime of cleaning up 14 acres of Morristown PA without the approval of the environmental gestapo. (See enclosed memo to Sununu.)

Your Pardon Attorney apparently doesn't want to recommend a pardon for this guy - since Justice spent so much effort getting him into the slammer in the first place. This strikes me as a bit of a conflict of interest situation.

Poszgai also had to pay a humongous fine - \$200K. For what? He left the environment better than he found it, but the Army Wetland Police want to make an example out of him for being as rude to their inspector as he was to the Soviet troops in Budapest in 1956.

Would you take a look at this case?

Yours truly,

A handwritten signature in dark ink, appearing to read "John McClaughry".
John McClaughry



STATE OF VERMONT

Senator John McClaughry
Caledonia-Orange District
Concord, VT 05602
(802) 695-2555

Senate Chambers
Montpelier, VT 05602
1-800-322-5616
(802) 828-2228

August 5, 1991

To: John Sununu, Chief of Staff

From: John McClaughry

Re: Wetlands Rules

Hooray for the new wetlands definitions! You must have had a hand in this. (Bill Reilly wouldn't have bought this without generous applications of the thumbscrew, of which you are known to be the custodian.)

Now, for a grand slam, how about pardoning poor John Poszgai?

Poszgai is the ex-Hungarian Freedom Fighter who is now serving three years in Federal prison and paying a crushing \$200,000 fine, for cleaning up 14 acres of trash and old tires in Morristown PA, on a lot some bureaucrat deemed a wetland (mainly because the old tires diverted a brook onto the property after major rainstorms.)

I have been bugging Boyden Gray and Thornburgh about this for six months. The Washington Legal Foundation has an appeal filed with the Pardon Attorney at Justice but nothing seems to be happening.

And nothing will happen unless the guy we elected President overturns all the bureaucratic resistance and ass-covering and exercises his Constitutional powers under Article 2 Section 2. How do you expect Justice to recommend a pardon, after all the work Justice did to put poor Poszgai in the slammer in the first place?

Tell the Pres for me, he's gonna sleep real good the night he pardons John Poszgai. And no small part of it will be the cheers from ordinary landowners and working stiffs all across this country who have had it with Federal government enforcement of goofball environmental elitism.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: RICHARDSON, CONG. BILL

To: AG.

ODD: 01-02-92

Date Received: 12-02-91 Date Due: 01-02-92 Control #: X91120420088

Subject & Date

11-21-91 LETTER WRITING FURTHER ON BEHALF OF
CHARLES W. TURNER, RATON, NM, WHO REQUESTS SOME GUIDELINES
TO FOLLOW WHEN APPLYING FOR A PARDON.

SEE EXEC. SEC. CONTROL 91081915166 - CONTROL SHEET ATTACHED.

	Referred To:	Date:		Referred To:	Date:	
(1)	OPA;LOVE	12-04-91	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			2
	INTERIM BY:			DATE:		OPR:
	Sig. For: OPA			Date Released: 12-20-91		MMH

Remarks

ORIGINAL TO AG FILES.

(1) RETURN THIS CONTROL SHEET WITH A COPY OF THE RESPONSE TO
EXEC. SEC., ROOM 4400-AA.

12-20-91. OPA RESPONDED ON 12-17-91. COPY TO AG FILES.MLN

Other Remarks:

FILE: PARDONS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

Q/O 21 Nov 91



U.S. Department of Justice

Pardon Attorney

Washington, D.C. 20530

December 17, 1991

The Honorable Bill Richardson
House of Representatives
Washington, D.C. 20515

Dear Congressman Richardson:

This responds to your letter of November 21, 1991 to former Attorney General Thornburgh enclosing a copy of a letter from Charles W. Turner, an unsuccessful pardon applicant who requests your assistance in connection with reapplication for pardon.

As I advised in my letter to you of August 26, 1991 (copy enclosed), Mr. Turner will become eligible to reapply for pardon in June 1993, two years from the date his application was denied. In the meantime, he may wish to review the recently revised Information and Instructions on Pardons (copy enclosed), which contains advice designed to assist pardon applicants in completing the required pardon application.

I hope the foregoing information will be helpful in responding to Mr. Turner. I appreciate your continued interest in this matter.

Sincerely,

Margaret C. Love
Pardon Attorney

X91120420088

BILL RICHARDSON
3rd DISTRICT, NEW MEXICO

COMMITTEES:
ENERGY AND COMMERCE
INTERIOR AND INSULAR AFFAIRS
HELSINKI COMMISSION
ON HUMAN RIGHTS
SELECT COMMITTEE ON INTELLIGENCE
SELECT COMMITTEE ON AGING



Congress of the United States
House of Representatives
Washington, DC 20515

November 21, 1991

The Honorable Dick Thornburgh
Dept. of Justice
10th Street and Constitution Avenue Northwest
Room 4400
Washington, DC 20530

Re: Mr. Charles W. Turner,

Dear The Honorable Thornburgh:

One of my constituents, Mr. Charles W. Turner has contacted me for assistance on a problem with which the Department of Justice - Attorney General of the United States might be able to help. I have enclosed all the information which we have been given on this particular case for your perusal and review.

Mr. Turner and I are anxious to resolve this problem as soon as possible. Because of this, your prompt consideration would be most appreciated. If you have any questions, please contact Rebecca Montoya in my Las Vegas Office.

Sincerely yours,

Bill Richardson
BILL RICHARDSON
Member of Congress

BR/rpm
L2Ab

WASHINGTON:
332 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6190

SANTA FE:
548 AGUA FRIA
SANTA FE, NM 87501
(505) 988-7230

GALLUP:
GALLUP CITY HALL
GALLUP, NM 87301
(505) 722-6522

LAS VEGAS:
SANTA MIGUEL COUNTY COURTHOUSE
P.O. Box 1805
LAS VEGAS, NM 87707
(505) 425-7270

EXECUTIVE SECRETARIAT

DEC -2 P4:09

RECEIVED
DEPARTMENT OF JUSTICE

FOIA(b)(6)

OCT 3 1 1991

FOIA(b)(6)

October 2, 1991

RECEIVED

OCT 9 1991

WASHINGTON OFFICE

Congressman Bill Richardson
332 Cannon Building
U.S. House of Representatives
Washington, D.C. 20515

Ref: Presidential Pardon
Western Docket Nbr CR 83-54
Dated April 21, 1983
SSN Nbr [REDACTED]

Dear Congressman Richardson;

I have received your letter of September 9, 1991. In reference to a presidential pardon.

I wish to thank you, and your staff in acting as advocates in my behalf for a pardon.

Would it be possible for either you or your staff to advise me in exactly what the Department of Justice looks for in granting a person a full pardon. I will continue to try to obtain a pardon, but I would need some guide lines to follow. Such a what type of letters of recommendations, and who from. Is there a special way that the required forms for a pardon to be filled out, if so, etc.

I hope that in the very near future, on one of your many trips to Raton, that I would be able to meet with you for a short time so that we could meet each other on a one to one basis.

Again thank you so very much for your interest in my quest for a full presidential pardon.

Sincerely;

Charles W. Turner

[REDACTED]

FOIA(b)(7) - (C)

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: LOVE, MARGARET C., PARDON ATTORNEY

To: AG.

ODD: NONE

Date Received: 11-29-91 Date Due: NONE

Control #: X91112919888

Subject & Date

11-27-91 MEMO (FAX COPY REC'D FROM OAG) REGARDING THE
PARDON APPLICATION OF ROBERT EDWARD LEIGH BARNHILL, JR.,
WITH ATTACHMENTS.

SEE E.S. 91100417291 CONTROL SHEET ATTACHED.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;	11-29-91	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1
	INTERIM BY:			DATE:		OPR:
	Sig. For:	NONE		Date Released:		HBR

Remarks

INFO CC: DAG.

12-02-91: ORIGINAL MEMO REC'D IN EXEC. SEC. AND FORWARDED
TO AG FILES. (MAU)

Other Remarks:

WBD 11-29-91
FILE: PARDONS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

27
16 NOV 91



U.S. Department of Justice

Pardon Attorney

Washington, DC 20530

November 27, 1991

RECEIVED
DEPARTMENT OF JUSTICE

MEMORANDUM FOR THE ATTORNEY GENERAL

DEC -2 11:48

Pardon Application of Robert Edward Leigh Barnhill, Jr.

EXECUTIVE SECRETARY

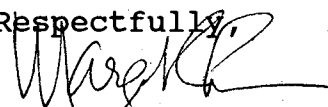
Mr. Barnhill's application for pardon of his 1980 bidrigging conviction (W/NC) was denied by President Bush on June 25, 1991. Attached is a copy of your report to the President recommending that the application be denied. Favorable action on Mr. Barnhill's application was urged in a letter to the President from the Governor and Lieutenant Governor of North Carolina, Senator Jesse Helms, and Representative Tim Valentine, who pointed to Mr. Barnhill's sincere remorse for his offense as well as his substantial record of community service. The Antitrust Division, which prosecuted the case, recommended strongly against granting a pardon. In doing so, Assistant Attorney General Rill noted that a pardon in this type of case would "seriously undermine" the Administration's program of deterrence in Sherman Act cases. Your report to the President concurred in Antitrust's view, pointing out that the stigma of a felony conviction is probably the single greatest deterrent to this type of white collar crime. Your report also noted that Mr. Barnhill had been treated leniently by the criminal justice system, had been permitted to resume his contracting business with the state in spite of his felony conviction, and had advanced no compelling need for a pardon.

President Bush has not pardoned any Sherman Act violators, and in the past year he has denied at least nine other pardon applications from individuals convicted of bidrigging offenses. In each case the Antitrust Division has taken a strong position against granting a pardon -- the same position it has consistently taken in Sherman Act cases for many years.

Senator Helms wrote to Mr. Sununu asking for a meeting to discuss Mr. Barnhill's case on September 26, 1991. A copy of his letter was sent to the Department, and is attached.

Under longstanding pardon policies, unsuccessful applicants ordinarily are required to wait for two years before reapplying. In the normal course, Mr. Barnhill would be eligible to reapply in June of 1993. The remaining portion of this waiting period can of course be waived at any time.

Respectfully,


Margaret C. Love
Pardon Attorney

REPORT TO THE PRESIDENT
ON PROPOSED DENIAL OF EXECUTIVE CLEMENCY FOR
ROBERT EDWARD LEIGH BARNHILL, JR.

Offense: Bid rigging in violation of Sherman Antitrust Act.

Sentence: Two years' probation and \$10,000 fine.

Date: December 3, 1980.

District: Western North Carolina.

Relief sought: Pardon.

Summary of essential facts:

The offense for which petitioner requests pardon occurred while he was executive vice president of his father's grading and paving company, Barnhill Contracting Company, and president of its wholly owned subsidiary, Cumberland Paving Company, large highway construction companies headquartered in Tarboro and Fayetteville, North Carolina. He began work with Barnhill in 1970, and states that about 1973 he began to realize that the company had agreed with other companies as to which of them would receive certain paving contracts. Pursuant to this agreement, set procedures were followed to allocate each job and to determine the rigged bid to be submitted by the chosen contractor, as well as the complementary (or non-competitive) bids to be submitted by the other conspirators. Petitioner states that the bid rigging expanded and he became steadily more involved in the late 1970's, when the practice of allocating contracts included virtually every major highway paving contractor. The conspiracy continued until 1979. He states that his companies paid \$450,000 in restitution.

Reasons for denial:

Petitioner, aged 44, has no other criminal record. He is very active in community affairs and his character references and acquaintances commented favorably concerning his character. Petitioner seeks a pardon in order to permit him to become more active in civic and political activities. In this connection, he states: "I feel that I could contribute more to my community and state if I did not have the restrictions inflicted by a felony conviction."

Petitioner's character references include a North Carolina state judge and the Mayor of Tarboro. In addition, the Governor and Lieutenant Governor of North Carolina, and a U. S. Senator and U.S. Representative from that state, urge that petitioner's

application be acted upon favorably. In a letter signed by all four, they state:

Since his conviction Mr. Barnhill has become an outstanding community leader and has given much of his time and his substance to bettering the life of his community and the State. He is an active supporter of the East Carolina Council, Boy Scouts of America and is a member of its Board of Directors. He helped establish the Tarboro Community Outreach Center, an outreach ministry in his home community, and has given his service and his resources to construct a building to house the ministry. He and his wife are among the sponsors of the Lineberry Cancer Research Center in Chapel Hill. He has been a key leader in the economic development in Edgecombe County and much of Eastern North Carolina. He is widely recognized as one of North Carolina's outstanding business leaders and recently was named "Volunteer of the Year" for North Carolina by the North Carolina Industrial Developers Association. He currently serves as Vice-Chairman of the North Carolina Wildlife Commission.

The letter concludes that petitioner "again is doing business with the State and he and his companies are regarded with favor." Petitioner's probation officer also recommends that pardon be granted based on petitioner's "stability in residence, employment, marriage and the time and energy he devotes to his church and community affairs." The sentencing judge recommends "favorable action on Mr. Barnhill's application for pardon."

On the other hand, the Assistant Attorney General for the Antitrust Division, which prosecuted the case, strongly recommends that the application for pardon be denied. He points out that Congress in 1974 substantially increased the penalties for violation of the Sherman Act, upgrading this offense from a misdemeanor to a felony, and that the Antitrust Division's vigorous program of criminal antitrust law enforcement would be "seriously undermined if convicted bid riggers, such as Mr. Barnhill, Jr., can routinely expect presidential pardons." As to the instant case, the Assistant Attorney General comments as follows:

Mr. Barnhill, Jr. was fully aware of the illegality of his actions, and, as head of a large highway construction firm in North Carolina, he was one of the prime movers in the

conspiracy charged in the information. The only reasons asserted by Mr. Barnhill, Jr. in support of his petition for the pardon are that his felony conviction is consistently brought up as he tries to perform various community work, and that the conviction causes problems when applying for loans. He says he could be more effective and productive in his community if he could receive a pardon. To grant a pardon in these circumstances would undermine the deterrent value of antitrust law enforcement. There are no special circumstances presented here warranting a presidential pardon. I strongly urge you to recommend to the Attorney General and the President that his petition be denied.

Mindful of the contributions made by petitioner to the community before and since his conviction, I nonetheless agree with the comments and adverse recommendation submitted by the Assistant Attorney General, Antitrust Division. Favorable consideration of petitioner's pardon application would undermine the Administration's prosecutive efforts against this type of white collar crime, to which the stigma of a felony conviction is probably the single greatest deterrent. In this case, petitioner was treated leniently by the criminal justice system, has been permitted to resume his contracting business with the state, and cites no compelling need for a pardon. Considering the serious nature, duration and relatively recent occurrence of his offense, the granting of a pardon would be inappropriate. Therefore, I advise you to deny the petition.

Respectfully,



Deputy Attorney General

Date: 4/26/90

United States Senate

WASHINGTON, DC 20510-3301

September 26, 1991

The Honorable John H. Sununu
Chief of Staff
The White House
Washington, D.C. 20500

Dear John:

At Tuesday's Republican Policy Luncheon you agreed that you would meet with a delegation from North Carolina concerning a pardon for Robert Edward Leigh Barnhill, Jr., whose Docket Number is C-CR-80-94.

If you will briefly examine the attached file left with me yesterday by Jack Bailey of Rocky Mount, you will note that Barnhill has significant and distinguished support --

Governor Martin

Lieutenant Governor Jim Gardner

Federal Judge Woodrow W. Jones (who tried the case)

Jack Hawke, North Carolina's G.O.P. Chairman

Jack Laughery, N.C. National G.O.P. Committeeman

Jim Trotter, the Governor's legal counsel.

We could load you down with a two-foot stack of letters and petitions from North Carolinians in every walk of life, but we won't do that to you.

I have talked with The Honorable Margaret C. Love, Pardon Attorney at the Department of Justice -- who, incidentally, is a gracious and helpful lady. I discussed the Barnhill case with her and asked her if she would be willing to attend a meeting with you. She said she would be happy to attend. I did not ask her for a commitment of any kind and she volunteered none. I believe it would be helpful to have her there.

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DEPARTMENT OF JUSTICE
91 OCT -4 A9:41

Governor Sununu
September 26, 1991
Page Two

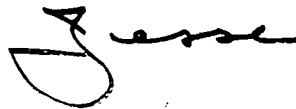
Also, it would be great if Boyden Gray could sit in.

Would you see if you can set aside a few minutes for the delegation to sit down with you? It will not be a long, drawn-out affair.

Because of my radiation treatments, I'll be in Washington during the upcoming recess of the Senate; therefore I will be available any afternoon of your choosing. (I have to "do my thing" at Bethesda each morning.)

Many thanks, John, for your interest and cooperation.

Sincerely,



JESSE HELMS:pd

✓BC: The Honorable Margaret C. Love

*Hope you don't mind,
Thanks again for talking
with me.*

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: RICHARDSON, CONG. BILL

To: AG. (THORNBURGH)

ODD: 01-24-92

Date Received: 12-23-91 Date Due: 01-24-92 Control #: X91122421015

Subject & Date

12-16-91 LETTER ON BEHALF OF GEORGE J. CONTRERAS, SANTA FE,
NM, WHO IS REQUESTING INFORMATION ON HOW TO OBTAIN A PARDON.
HE WAS CONVICTED OF A FEDERAL OFFENSE.

	Referred To:	Date:	Referred To:	Date:	
(1)	OPA; LOVE	12-24-91	(5)		W/IN:
(2)			(6)		
(3)			(7)		PRTY:
(4)			(8)		2
	INTERIM BY:		DATE:		OPR:
	Sig. For: OPA		Date Released: 01-13-92		MMH

Remarks

ORIGINAL TO AG FILES.

(1) RETURN THIS CONTROL SHEET WITH A COPY OF THE RESPONSE TO
EXEC. SEC., ROOM 4400-AA.

01-13-92. OPA RESPONDED ON 01-10-92. COPY TO AG FILES.MLN

Other Remarks:

FILE: PARDONS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

U.S. Department of Justice

Pardon Attorney

Washington, D.C. 20530

January 10, 1992

The Honorable Bill Richardson
Member of Congress
548 Agua Fria
Santa Fe, New Mexico 87501

Dear Congressman Richardson:

This responds to your letter of December 16, 1991 to former Attorney General Thornburgh enclosing a copy of correspondence from George J. Contreras, who requests your assistance in obtaining a presidential pardon.

Enclosed are forms which Mr. Contreras may use in making formal application for pardon. The forms should be carefully and fully completed in accordance with the rules and instructions that are provided. Please note in particular paragraphs two and three of the Information and Instructions on Pardons. The completed forms should be returned to this office for processing and need not be filed in duplicate.

I appreciate your interest in this matter.

Sincerely,



Margaret C. Love
Pardon Attorney

X 911 224 21015

BILL RICHARDSON
3D DISTRICT, NEW MEXICO

COMMITTEES:
ENERGY AND COMMERCE
INTERIOR AND INSULAR AFFAIRS
HELSINKI COMMISSION
ON HUMAN RIGHTS
SELECT COMMITTEE ON INTELLIGENCE
SELECT COMMITTEE ON AGING



Congress of the United States
House of Representatives
Washington, DC 20515

WASHINGTON:
332 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6190

SANTA FE:
548 AGUA FRIA
SANTA FE, NM 87501
(505) 988-7230

GALLUP:
GALLUP CITY HALL
GALLUP, NM 87301
(505) 722-6522

LAS VEGAS:
SAN MIGUEL COUNTY COURTHOUSE
P.O. Box 1805
LAS VEGAS, NM 87701
(505) 425-7270

EXECUTIVE SECRETARIAT

91 DEC 23 12:00

RECEIVED
DEPARTMENT OF JUSTICE

December 16, 1991

The Honorable Dick Thornburgh
Dept. of Justice
10th Street and Constitution Avenue Northwest
Room 4400
Washington, DC 20530

Re: Mr. George J. Contreras,
Dear The Honorable Thornburgh:

One of my constituents, Mr. George J. Contreras has contacted me for assistance on a problem with which the Department of Justice - Attorney General of the United States might be able to help. I have enclosed all the information which we have been given on this particular case for your perusal and review.

Mr. Contreras and I are anxious to resolve this problem as soon as possible. Because of this, your prompt consideration would be most appreciated. If you have any questions, please contact Sam Taylor in my Santa Fe Office.

Sincerely yours,

BILL RICHARDSON
Member of Congress

BR/srt
S2Ab

October 31, 1991

Bruce King - Governor
PERA Bldg.
Santa Fe, New Mexico 87503

Dear Sir:

My name is George J. Contreras and I am seeking your help in attaining a pardon from the State of New Mexico through means of your power to grant pardons.

I was born on [REDACTED] My Social Security Number is [REDACTED] In August 1976 I went on trial in the United States District Court for the District of New Mexico. On August 2, 1976 I received a sentence of two years for the transporting of contraband. I served 1½ years of the original two year sentence. The case is recorded in the United States Courthouse located in Albuquerque, New Mexico filed as Criminal Docket #76-129.

Since my release I have received one traffic violation for speeding in 1982. I reside in Socorro County, Socorro, New Mexico. I am unable to work as a result of a severe back injury in 1967.

Sir, I feel I have paid my dues to society for my past crimes. I ask for your help now because I truly believe I deserve the right to life, liberty, and the pursuit of happiness. Thank you for your time.

Sincerely,

George J. Contreras
George J. Contreras

County Abstract & Title Co. of Socorro

November 10, 1991

115 Court Street
505-835-0573

P. O. Box 614
Socorro, New Mexico 87801

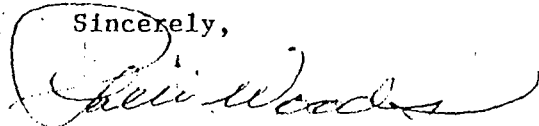
Honorable Bruce King, Governor
Pera Bldg. Capitol Bldg.
Santa Fe, New Mexico 87503

Attention: Governor

Would appreciate any help you can give George, He has worked for Jamie & I
for over ten years and is very reliable and trustworthy.

Should you need further information or data, please advise.

Sincerely,



Patti Woods



OFFICE OF THE GOVERNOR

STATE CAPITOL
SANTA FE, NEW MEXICO 87503

BRUCE KING
GOVERNOR

(505) 827-3000

November 26, 1991

Mr. George J. Contreras
County Abstract and Title Company
P.O. Box 614
Socorro, NM 87801

RE: Request for Executive Clemency/Pardon

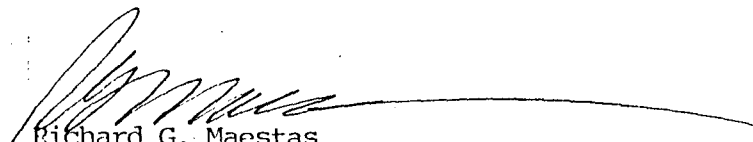
Dear Mr. Contreras:

Governor King has asked me to respond to your recent letter in which you request consideration for executive clemency/pardon.

In reading your letter, I gather that you were charged and convicted of a federal offense, if such is the case the Governor cannot grant you executive clemency. The Governor can only grant clemency for crimes committed against the State of New Mexico.

Clemency for a federal crime is granted by the Federal Government.

Sincerely,


Richard G. Maestas
Administrative Aide
Office of the Governor

cc: file

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

GEORGE J. CONTRERAS,

Defendant.

No. 76-129 Criminal
CR

APPEARANCES:

For the Plaintiff:

HONORABLE VICTOR ORTEGA
United States Attorney
By: Richard Baker
United States Courthouse
Albuquerque, New Mexico

For the Defendant:

THOMAS E. HORN
Attorney at Law
123-A Madeira, Southeast
Albuquerque, New Mexico

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that the above-entitled and numbered
cause came on for sentencing before the HONORABLE EDWIN L.
MECHEM, United States District Judge, at Albuquerque, New
Mexico, on the 2nd day of August, 1976, at 9:00 o'clock A.M.;

That the Plaintiff appeared through its attorney of
record, as set forth above;

That the Defendant appeared in person and by his

1 attorney of record as set forth above, and the following
2 proceedings were had:

3 THE COURT: This is number 76-129, U. S. versus
4 George J. Contreras. Is the United States ready?

5 MR. BAKER: Ready, Your Honor.

6 THE COURT: Is the defense ready?

7 MR. HORN: Yes, sir.

8 THE COURT: Mr. Horn, do you know of any reason
9 why sentence should not be imposed at this time?

10 MR. HORN: No, sir.

11 THE COURT: Mr. Contreras, do you know of any
12 reason why sentence should not be imposed at this time?

13 MR. CONTRERAS: No, sir.

14 THE COURT: Do you have any statement you would
15 like to make?

16 MR. HORN: Your Honor, if the Court please, I'll
17 speak.

18 THE COURT: Fine. I need to find out if Mr.
19 Contreras has any statement he would like to make,
20 anything you would like to say.

21 MR. CONTRERAS: No, sir.

22 THE COURT: Fine. Mr. Horn?

23 MR. HORN: Your Honor, I'm not going to reiterate
24 anything that was set out in the pre-sentence report.
25 The Court is aware of the facts of the case. I would

dearnley, meier & associates reporting service, inc.

209 SANDIA SAVINGS BLDG. • P. O. BOX 1092 • PHONE 243-6691 • ALBUQUERQUE, NEW MEXICO 87103
1507 FIRST NATIONAL BANK BLDG. EAST • ALBUQUERQUE, NEW MEXICO 87108

1 like to point out, I think the facts are clear in the
2 case that Joe Contreras' role in this activity that
3 he came and pled guilty to was thatnot of a mastermind
4 or a ring leader, but rather that of a mule, one who was
5 hired to transport contraband. It is unfortunate that
6 it is these people that bear the brunt and the ones that
7 are masterminding are not in fact the ones that are
8 standing before Your Honor. This does not excuse the
9 conduct at all, but merely we point out as a mitigating
10 circumstance, I think the fact that the U. S. Attorney
11 agreed to dismiss the felony indictment and plead to a
12 misdemeanor is certainly significant, at least in their
13 eyes, and I think the facts justify that Joe Contreras
14 was not in the drug dealing business and did play the
15 role of a mule.

16 With the exceptions of the problems in California,
17 almost twenty years ago, I think the Court can see that
18 he has not seriously been in trouble with the law. In
19 1967, as a result of employment in Grants, he was
20 severely injured in his back and resulted in an operation
21 in 1974, causing three vertebra to be removed. He is
22 in constant pain and I think that incarceration would
23 not serve any valuable purpose and certainly would
24 aggravate the existing physical injury that he has and
25 we ask for Your Honor's mercy in imposing sentence.

1 THE COURT: Does the U. S. have any statement?

2 MR. BAKER: No, Your Honor. Pursuant to the plea
3 bargain, we agree to waive allocution.

4 THE COURT: Mr. Contreras, it is adjudged on
5 Count 1 that you are hereby committed to the custody of
6 the Attorney General or his authorized representative
7 for a term of one year. It is adjudged that on Count 2
8 you are hereby committed to the custody of the Attorney
9 General or his authorized representative for a term of
10 one year. It is further adjudged that sentence on
11 Count 2 is to run consecutively with the sentence on
12 Count 1.

13 Is there anything further to come up in connection
14 with this matter?

15 MR. BAKER: Your Honor, the defendant having now
16 been sentenced, pursuant to the plea bargain, the
17 government would move to dismiss indictment 76-129.

18 THE COURT: It will be dismissed. Anything
19 further?

20 MR. HORN: No, sir, nothing.

21 THE COURT: Court is in recess.

22 (Whereupon, the proceedings were concluded at
23 9:04 o'clock A.M.)
24
25

REPORTER'S CERTIFICATE

I, JOHN DE LA ROSA, C.S.R., do hereby certify that I personally reported the foregoing and attached Transcript of Proceedings; that said Transcript of Proceedings is a true record of the proceedings had.

Dated this 7th day of March, 1977, at Albuquerque, New Mexico.

John de la Rosa
Certified Shorthand Reporter
By Robert Haggard

DEC 12 1991

December 6, 1991

Mr. Sam Taylor
548 Agua Fria
Santa Fe, NM 87501

Dear Mr. Taylor:

Thank you for your help on my behalf, I greatly appreciate it.

Included with this letter are the photocopies of documents and all of the correspondence in my possession. Also, the addresses and phone numbers of the people I have contacted about my case.

An administrative aide from the Office of the Governor of New Mexico informed me that Governor Bruce King cannot pardon a federal crime, this is the reason I am seeking your help.

The only person I contacted by telephone was Richard G. Maestas, Bruce King's aide, and his phone number is 1-800-827-3000. Jim & Patricia Woods of County Abstract & Title Co., in Socorro, NM have helped in attaining phone numbers and writing letters. They can be reached at (505) 835-0573.

Once again, thank you for your help and time.

Sincerely,

George J. Contreras

GJC/eje

Enclosures

County Abstract & Title Co. of Socorro

115 Court Street
505-835-0573

P. O. Box 614
Socorro, New Mexico 87801

December 6, 1991

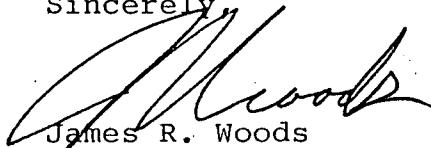
Rep. Bill Richardson
548 Agua Fria
Santa Fe, New Mexico 87501

Dear Sir:

I appreciate the time and effort that you and your staff are contributing to Mr. Contreras's case. Mr. Contreras has worked for my wife and I for over ten year. He is a very reputable and trust worthy employee.

If you need any further information please feel free to call me at the above number or fax me a letter at 505/835-1043.

Sincerely,


James R. Woods

JRW/ee



RELEASE OF INFORMATION

I, George Jose Contreras
(please print full name)

do hereby authorize the release of any and all information contained in my file to any authorized representative of CONGRESSMAN BILL RICHARDSON'S office.

I understand that under the privacy laws, federal and state, I do not have to give such a release but do so since I have voluntarily sought the assistance of CONGRESSMAN BILL RICHARDSON'S office.

I also understand that if deemed necessary by CONGRESSMAN RICHARDSON'S office, they have my full permission and authorization to forward any correspondence I may have sent them concerning said case.

I further understand that I will save harmless both the agency divulging the information and CONGRESSMAN RICHARDSON'S office as it relates to the giving and accepting of any information on my behalf.

George J. Contreras
(Signature of Full Name)

FOIA(b)(7) - (C)

FOIA(b)(6)

Please return this form to: Congressman Bill Richardson
548 Agua Fria - Santa Fe, NM 87501

SCREENED
FOIA # 60048
(URTS 16444)
By: NARA (RD-F)
Date: 2/6/2019

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: LOVE, MARGARET C., PARDON ATTORNEY
To: AG. ODD: NONE
Date Received: 09-09-91 Date Due: NONE Control #: X91090916051
Subject & Date
09-05-91 MEMO TRANSMITTING THE OFFICE OF THE PARDON ATTORNEY
MONTHLEY STATISTICAL REPORT FOR AUGUST 1991.

(1) Referred To:	Date:	(5) Referred To:	Date:	W/IN:
(2) OAG;	09-09-91	(6)		PRTY:
(3)		(7)		1
(4)		(8)		OPR:
INTERIM BY:		DATE:		CYN
Sig. For:	NONE	Date Released:		

Remarks
INFO CC: DAG

Other Remarks:

GJT 9/9/91
FILE: PARDON ATTORNEY (OPA)

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

S. September 91



U.S. Department of Justice

Pardon Attorney

RECEIVED
DEPARTMENT OF JUSTICE

'91 SEP -9 P2:15

Washington, DC 20530

EXECUTIVE SECRETARIAT

SEP 5 1991

MEMORANDUM

TO: William P. Barr
Acting Attorney General

FROM: *ML* Margaret C. Love
Pardon Attorney

SUBJECT: Monthly Statistical Report for August 1991

Transmitted herewith is the monthly report for the Office of the Pardon Attorney for August 1991 showing statistics on pending pardon cases.

Attachment

OFFICE OF THE PARDON ATTORNEY

Monthly Report

for

August 1991

On August 1, 1991 there were 233 petitions pending for various forms of Executive Clemency. During the month 31 petitions were received. The total for consideration was 264 petitions.

During the month no action was taken by the President on clemency matters. In accordance with clemency procedures, seven cases were closed administratively, leaving a total of 257 cases pending.

Broken down, the above figures appear as follows:

	<u>Pardons</u>	<u>Commutations</u>	<u>Total</u>
Pending 8/1/91	158	75	233
New petitions received	<u>18</u>	<u>13</u>	<u>31</u>
Total for consideration	176	88	264
Petitions granted	0	0	0
Petitions denied	0	0	0
Petitions no actioned	<u>5</u>	<u>2</u>	<u>7</u>
Total pending 9/1/91	171	86	257

As of the close of business on August 31, 1991, petitions were pending in the following categories:

At the Office of the Counsel to the President:	
With a recommendation of clemency.....	9
With a recommendation of denial.....	0
At the Office of the Deputy Attorney General:	
With a recommendation of clemency.....	12
With a recommendation of denial.....	62
Ready to go to the Deputy Attorney General:	
For favorable consideration.....	1
For denial consideration.....	2
Before the Pardon Attorney:	
For favorable consideration.....	3
For denial consideration.....	25
In field status.....	<u>143</u>
Total.....	257

Selected correspondence figures follow:

	<u>August</u>	<u>FY to Date</u>
White House and Executive		
Secretariat referrals answered....	139	866
Congressional inquires answered....	7	105
FOI/PA requests answered, referrals		
made and reports submitted.....	10	78

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: LOVE, MARGARET C., PARDON ATTORNEY
To: AG. ODD: NONE
Date Received: 10-09-91 Date Due: NONE Control #: X91101017554
Subject & Date
10-08-91 MEMO (REC'D FROM OAG) TRANSMITTING THE MONTHLY
STATISTICAL REPORT FOR SEPTEMBER 1991 ON PENDING PARDON
CASES.

(1)	Referred To:	Date:	(5)	Referred To:	Date:	W/IN:
(2)	OAG;	10-10-91	(6)			
(3)			(7)			PRTY:
(4)			(8)			1
	INTERIM BY:			DATE:		OPR:
	Sig. For:	NONE		Date Released:		MAU

Remarks
INFO CC: DAG.
(1) FOR INFORMATION.

Other Remarks:

GJT 10/10/91
FILE: PARDON ATTORNEY (OPA)

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

8 OCT 91



U.S. Department of Justice

Pardon Attorney

RECEIVED
DEPARTMENT OF JUSTICE

'91 OCT -9 P5:41

Washington, DC 20530

EXECUTIVE SECRETARIAT

OCT 8 1991

MEMORANDUM

TO: William P. Barr
Acting Attorney General

FROM: *WML* Margaret C. Love
Pardon Attorney

SUBJECT: Monthly Statistical Report for September 1991

Transmitted herewith is the monthly report for the Office of the Pardon Attorney for September 1991 showing statistics on pending pardon cases.

Attachment

OFFICE OF THE PARDON ATTORNEY

Monthly Report

for

September 1991

On September 1, 1991 there were 257 petitions pending for various forms of Executive Clemency. During the month 37 petitions were received. The total for consideration was 294 petitions.

During the month no action was taken by the President on clemency matters. In accordance with clemency procedures, five cases were closed administratively, leaving a total of 289 cases pending.

Broken down, the above figures appear as follows:

	<u>Pardons</u>	<u>Commutations</u>	<u>Total</u>
Pending 9/1/91	171	86	257
New petitions received	<u>12</u>	<u>25</u>	<u>37</u>
Total for consideration	183	111	294
Petitions granted	0	0	0
Petitions denied	0	0	0
Petitions no actioned	<u>3</u>	<u>2</u>	<u>5</u>
Total pending 10/1/91	180	109	289

As of the close of business on September 30, 1991, petitions were pending in the following categories:

At the Office of the Counsel to the President:	
With a recommendation of clemency.....	10
With a recommendation of denial.....	0
At the Office of the Deputy Attorney General:	
With a recommendation of clemency.....	14
With a recommendation of denial.....	95
Ready to go to the Deputy Attorney General:	
For favorable consideration.....	1
For denial consideration.....	0
Before the Pardon Attorney:	
For favorable consideration.....	4
For denial consideration.....	13
In field status.....	<u>152</u>
Total.....	289

Selected Correspondence figures follow:

	<u>September</u>	<u>FY to Date</u>
White House and Executive		
Secretariat referrals answered.....	49	915
Congressional inquiries answered.....	2	107
FOI/PA requests answered, referrals		
made and reports submitted.....	14	92

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: LOVE, MARGARET C., PARDON ATTORNEY
To: AG. ODD: NONE
Date Received: 10-10-91 Date Due: NONE Control #: X91101117601
Subject & Date
10-10-91 MEMO (REC'D FROM OAG) TRANSMITTING THE ANNUAL
REPORT OF THE PARDON ATTORNEY FOR FY 1991.

Referred To:	Date:	Referred To:	Date:	
(1) OAG;	10-11-91	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: NONE		Date Released:		MAU

Remarks
CC INDICATED FOR ODAG (TERWILLIGER)
(1) FOR INFORMATION.

Other Remarks:

FILE: PARDON ATTORNEY (OPA)

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

16 OCT 91



U.S. Department of Justice

Pardon Attorney

RECEIVED
DEPARTMENT OF JUSTICE

'91 OCT 10 P2:40

Washington, DC 20530

EXECUTIVE SECRETARIAT

MEMORANDUM

OCT 10 1991

TO: William P. Barr
Acting Attorney General

FROM: *WML* Margaret C. Love
Pardon Attorney

SUBJECT: Annual Report - FY 1991

Transmitted herewith is the annual report of the Office of the Pardon Attorney for fiscal year 1991. As indicated therein, at the beginning of the year 681 petitions for clemency were pending. An additional 172 pardon petitions and 146 commutation petitions were received in FY 1991. The Pardon Attorney presented a total of 36 pardon petitions to the Office of the Deputy Attorney General with a favorable recommendation, and 657 petitions for pardon and commutation with a denial recommendation. The President granted 29 pardons during the fiscal year, no petitions for commutation of sentence, and denied 588 petitions. Ninety-three cases were closed administratively by the Pardon Attorney. At the close of FY 1991 289 clemency petitions were pending.

In addition to the clemency caseload, the office handled a substantial volume of correspondence in FY 1991, including 92 formal responses or reports in connection with the Freedom of Information and Privacy Acts. A significant amount of correspondence was in response to inquiries from Members of Congress addressed directly to the Pardon Attorney (107) and to White House and Executive Secretariat-controlled communications (915). The office also responded to over 6,000 pieces of case-related and miscellaneous correspondence.

Only 167 (43%) of the pardon petitions denied during FY 1991 were referred to the Federal Bureau of Investigation (FBI) for a full field background investigation. This compares to a 81% referral rate for petitions denied in FY 1990 and a 88% referral rate in FY 1989. Estimating the cost per background investigation at \$4,500, this resulted in a substantial cost savings to the FBI.

cc: George J. Terwilliger, III
Principal Associate Deputy
Attorney General

ANNUAL REPORT
OFFICE OF THE PARDON ATTORNEY
for
FISCAL YEAR 1991

There were 681 petitions for various forms of Executive clemency pending at the close of business on September 30, 1990. During fiscal year 1991, 318 petitions were received, making a total of 999 petitions for consideration. The President granted 29 pardon applications and denied 588 clemency applications, and 93 cases were closed administratively. A total of 289 petitions was pending at the close of business on September 30, 1991.

Broken down, the above figures appear as follows:

	<u>Pardons</u>	<u>Commutations</u>	<u>Total</u>
Pending 10/1/90	485	196	681
New petitions received	<u>172</u>	<u>146</u>	<u>318</u>
Total for consideration	657	342	999
Petitions granted	29	0	29
Petitions denied	390*	198	588
Petitions closed administratively	<u>62</u>	<u>31</u>	<u>93</u>
Total pending 10/1/91	176	113	289

Selected Correspondence figures follow:

	<u>FY 1991</u>
White House and Executive Secretariat referrals answered	915
Congressional inquiries answered	107
FOI/PA requests answered, referrals made and reports submitted	92

*Two hundred and twenty-three pardon petitions were denied without referral to the FBI. Estimating the cost per investigation at \$4,500, this resulted in a substantial cost saving to the FBI.

SCREENED
FOIA # 60048
(URTS 16444)
By: NARA (RD-F)
Date: 2/6/2019

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: DASCHLE, SENATOR TOM

To: AG.

ODD: 12-20-91

Date Received: 12-09-91 Date Due: 12-20-91 Control #: X91121020354

Subject & Date

12-04-91 LETTER REFERENCING A LETTER SIGNED BY SENATORS MIKULSKI, WARNER, AND THE SENATOR DATED JULY 11, 1991, REQUESTING HUMANITARIAN PAROLE FOR SEDA PEN AND HER SON, BORARITH HOR (COPY ATTACHED). THERE HAS BEEN NO RESPONSE TO THIS LETTER EVEN AFTER REPEATED CALLS TO DEPARTMENT STAFF. REQUESTS THAT THE ATTORNEY GENERAL DO WHATEVER IS NECESSARY TO SEE THAT A FAIR DECISION IS MADE IN THIS CASE AS SOON AS POSSIBLE. IF A RESPONSE IS NOT FORTHCOMING IN TWO WEEKS **

	Referred To:	Date:	Referred To:	Date:	
(1)	INS;McNARY	12-10-91	(5)		W/IN:
(2)	OLA;RAWLS	12-19-91	(6)		PRTY:
(3)			(7)		1
(4)			(8)		OPR:
	INTERIM BY:		DATE:		MLN
	Sig. For: OLA		Date Released: 12-19-91		

Remarks

** THE SENATOR WOULD APPRECIATE AN EXPLANATION OF WHEN A RESPONSE CAN BE EXPECTED. (SEE E.S. 91071512787 - ATTACHED) EXEC SEC SENT COPIES TO OAG, OAG (STEVENS), DAG, APR, OLA (WOLF). ORIGINAL TO AG FILES.

(1) PREPARE RESPONSE FOR THE SIGNATURE OF AAG RAWLS. RETURN TO EXEC SEC, WITH COPY OF INCOMING CORRESPONDENCE, FOR TRANSMITTAL TO OLA. INCLUDE A COPY OF RESPONSE AND

Other Remarks:

INCOMING LETTER FOR OPD COORDINATION.

(2) AG SIGNED LETTER DATED 12-17-91. ORIGINAL AND CC'S TO SENATORS MIKULSKI AND WARNER FORWARDED TO OLA FOR DELIVERY ON 12-19-91. CC TO INS. (TJ)

RJF 12-10-91

FILE: PAROLE, AG CHRON

I911210 5620

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY



Office of the Attorney General
Washington, D. C. 20530

December 17, 1991

The Honorable Thomas Daschle
United States Senate
Washington, D.C. 20510

Dear Senator Daschle:

I would like to apologize for the Department's delay in responding to you and Senators Mikulski and Warner concerning the humanitarian parole request of Seda Pen and her son, Borarith Hor.

At my direction, Ricardo Inzunza, the Deputy Commissioner of INS, has personally reviewed this matter. I believe that the Director of Congressional Affairs at INS has written to you to explain their reasons for denying the request. I would be pleased to have Mr. Inzunza meet with you to answer any questions you might have on this matter. He can be reached at 514-2961.

Again, please accept my apology for our delay in responding to your request. Please do not hesitate to contact me directly if you are having trouble receiving a response to your inquiries.

Sincerely,

A handwritten signature in dark ink, appearing to read "WP Barr", is positioned above the typed name.

William P. Barr
Attorney General

cc The Honorable Barbara A. Mikulski
The Honorable John W. Warner

THOMAS DASCHLE
SOUTH DAKOTA

COMMITTEES
AGRICULTURE
FINANCE
INDIAN AFFAIRS
VETERANS' AFFAIRS
(202) 224-2321
TOLL FREE 1-800-424-9094

United States Senate

WASHINGTON, DC 20510-4103

December 4, 1991

615 SOUTH MAIN STREET
P.O. Box 1536
ABERDEEN, SD 57401
(605) 225-8823

816 6TH STREET
P.O. Box 8168
RAPID CITY, SD 57709
(605) 348-7551

810 SOUTH MINNESOTA AVENUE
P.O. Box 1274
SIOUX FALLS, SD 57101
(605) 334-9596
TDD (605) 334-1632

EXECUTIVE SECRETARIAT

91 DEC -9 P4:27

RECEIVED
DEPARTMENT OF JUSTICE

The Honorable William P. Barr
Attorney General of the United States
U.S. Department of Justice
Room 5111, Main Justice Building
Constitution Avenue and Tenth Street, NW
Washington, DC 20530

Dear Mr. Barr:

On July 11, 1991, Senators Warner and Mikulski joined me in a letter to Attorney General Thornburgh supporting the request of Ms. Seda Pen and her son, Borarith Hor, for humanitarian parole. A copy of that letter is enclosed for your review.

In spite of repeated calls to your staff and repeated assurances from them that a response to our letter was imminent, we have received no response. While I understand that humanitarian parole cases can sometimes be complex, I can think of no reasonable excuse for the kind of delay Ms. Pen and her family have endured in this situation. The lack of response to the concerns of three senators in this case is also disturbing.

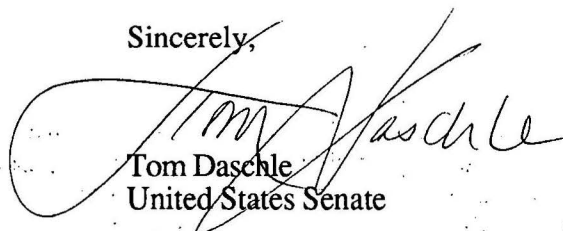
Your staff has suggested that the delay is coming from the Immigration and Naturalization Service (INS). Of course, it is the Attorney General who makes the final decision in humanitarian parole cases and has authority in this matter over INS, whose role is an advisory one. I request that you do whatever is necessary to ensure that a fair decision is made in this case as quickly as possible. If a response from you is not forthcoming in the next two weeks, I would appreciate notification of that fact, including an explanation of when we can expect a response.

The case for humanitarian parole for Seda Pen is a strong one, and I suspect that, after reviewing the case, you will reach that same conclusion. However, regardless of the outcome, I think you will agree that Ms. Pen deserves better treatment from the U.S. government than she has been afforded by this process. I hope you will put an end to these inordinate delays.

If you have any questions about this matter, please do not hesitate to contact me directly.

With best wishes, I am

Sincerely,



Tom Daschle
United States Senate

Enclosure

cc: The Honorable John Warner
The Honorable Barbara Mikulski

United States Senate

July 11, 1991

The Honorable Dick Thornburgh
Attorney General of the United States
U.S. Department of Justice
Constitution Avenue and Tenth Street, NW
Washington, DC 20530

Dear Mr. Thornburgh:

We are writing to request your personal attention to the request of Seda Pen and her son, Borarith Hor, for U.S. humanitarian parole. Their case is meritorious on both humanitarian and family reunification grounds. Enclosed for your review is a copy of their request, with accompanying attachments, as filed by Anne J. Chiaviello of the law firm of Patton, Boggs & Blow.

Seda Pen is a Cambodian national who, in 1989, managed to travel to Paris to join her sister Soarak, who had recently arrived there. Both had struggled to get to Paris to escape their past experiences with the Khmer Rouge as well as the Vietnamese-controlled government that has persecuted them as a result of their strong ties to U.S. citizens and their opposition to communist rule. Both sisters requested refugee status in Paris.

While Soarak was granted refugee status by the French government, and in spite of the similarity of their cases, Seda's request was denied. Seda now faces the terrifying prospect of being sent back to Cambodia, where she and her young son would almost certainly suffer continued persecution at the hands of the Cambodian government as well as isolation from their surviving family.

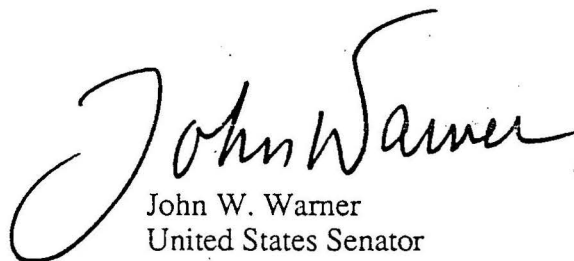
Although most of her immediate family perished during Pol Pot's rule, Ms. Pen has two surviving brothers in the United States, both of whom are U.S. citizens. Pakan Penn is a contractor living in McLean, Virginia, and Pockun Penn is a physician living in Towson, Maryland. Both are eager to be reunited with their sister and have expressed their commitment to supporting Seda both financially and emotionally. Ms. Pen's physician in Paris has attested to the fact that the love and support her family in the United States can provide her is exactly what Ms. Pen needs to ensure her physical and emotional well-being.

The request and supporting information as provided in the enclosed documents outline the many reasons for Seda Pen's real and, in our judgment, well-founded fear of persecution should she be forcibly returned to Cambodia at this time. The documents also describe her need for health care and a loving, supportive atmosphere as well as her brothers' desire and ability to provide for those needs. For these reasons, and in the spirit of the family reunification principles on which much of our immigration law is based, we respectfully request that you grant humanitarian parole to Seda Pen and Borarith Hor.

The Honorable Dick Thornburgh
July 11, 1991
Page two

Thank you for your attention to this very important matter. If you have any questions about it,
please do not hesitate to contact us.

Sincerely,


John W. Warner
United States Senator


Barbara A. Mikulski
United States Senator


Tom Daschle
United States Senator

Enclosure

SCREENED
FOIA # 60048
(URTS 16444)
By: NARA (RD-F)
Date: 2/6/2019

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: COVERDELL, PAUL D., DIRECTOR, U.S. PEACE CORPS
To: AG. ODD: NONE
Date Received: 09-11-91 Date Due: NONE Control #: X91091216213
Subject & Date
09-05-91 LETTER ADVISING THAT HE IS LEAVING THE PEACE CORPS
AND RETURNING TO HIS HOME IN GEORGIA. THANKS THE AG AND
HIS ASSOCIATES FOR THE MANY COURTESIES EXTENDED TO HIM AND
THE PEACE CORPS DURING HIS TERM AS DIRECTOR.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;	09-12-91	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1P
	INTERIM BY:			DATE:		OPR:
	Sig. For: AG.			Date Released:		PAB

Remarks
(1) TO OAG FOR ACTION.

Other Remarks:

FILE: PEACE CORPS

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

5 Sept 91

THE DIRECTOR OF THE UNITED STATES PEACE CORPS
WASHINGTON

September 5, 1991

RECEIVED
DEPARTMENT OF JUSTICE
91 SEP 11 P4:38
EXECUTIVE SECRETARIAT

The Honorable William P. Barr
Acting Attorney General
Department of Justice
Office of the Acting Attorney General
Tenth Street and Constitution Avenue, N.W.
Washington, DC 20530

Dear Mr. Attorney General:

It is now approaching three years since I came to Washington to join President Bush's administration.

It has been an unbelievable period in our history.

Other matters now require that I return to my home in Georgia and I wanted to thank you and your associates for the many courtesies extended to me and the Peace Corps during my term as Director.

Thank you for all that you are doing for the President and our country. If I can ever be of any assistance to you, please don't hesitate to be in touch.

Sincerely,



Paul D. Coverdell

PDC/kmc

SCREENED
FOIA # 60048
(URTS 16444)
By: NARA (RD-F)
Date: 2/6/2019

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: RYDER, MARGARET M., ASSOC. DIR. OF PRESIDENTIAL PERSONNEL
To: AG. ODD: NONE
Date Received: 08-27-91 Date Due: NONE Control #: X91082815595
Subject & Date
08-27-91 MEMO CONCURRING AS AN EXCEPTION TO POLICY IN A
PERSONNEL ACTION FOR A PROGRAM ANALYST IN THE CRIMINAL
DIVISION. RECOMMENDS THAT THE AG PROCEED WITH THIS ACTION
FOR THE POST.

Referred To:	Date:	Referred To:	Date:	
(1) DAG;KELLER	08-28-91	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1S
INTERIM BY:		DATE:		OPR:
Sig. For: ODAG		Date Released:		PAB

Remarks
INFO CC: OAG, ODAG (MACKEY)
(1) FOR APPROPRIATE HANDLING.

Other Remarks:

OLA CONTACT:
CWK/JPM 8/28/91
FILE: PERSONNEL/GENERAL

CROSS REFERENCES:
1. WHITE HOUSE CORRESPONDENCE

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

27 Aug 91

THE WHITE HOUSE
WASHINGTON

RECEIVED
DEPARTMENT OF JUSTICE

'91 AUG 27 P4:13

August 27, 1991

EXECUTIVE SECRETARIAT

MEMORANDUM FOR WILLIAM P. BARR
ACTING ATTORNEY GENERAL

FROM: MARGARET M. RYDER *mm ryder*
ASSOCIATE DIRECTOR OF PRESIDENTIAL PERSONNEL

SUBJECT: Dennis Alan Bartlett
Program Analyst
Criminal Division
Department of Justice
GS-14/7

In regard to the above personnel action we concur as an exception to policy and recommend your proceeding with this action for the post set forth and named above.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: RYDER, MARGARET M., ASSOC. DIR. OF PRESIDENTIAL PERSONNEL
To: AG. ODD: NONE
Date Received: 08-28-91 Date Due: NONE Control #: X91082815661
Subject & Date
08-27-91 MEMO CONCURRING WITH THE AG'S PROPOSAL REGARDING
AN ASSISTANT TO THE ATTORNEY GENERAL. RECOMMENDS THAT THE
AG PROCEED WITH THIS ACTION FOR THE POSITION.

	Referred To:	Date:		Referred To:	Date:	
(1)	OAG;	08-28-91	(5)			W/IN:
(2)			(6)			
(3)			(7)			PRTY:
(4)			(8)			1S
	INTERIM BY:			DATE:		OPR:
	Sig. For: OAG			Date Released:		PAB

Remarks
INFO CC: ODAG (MACKEY)
(1) FOR APPROPRIATE HANDLING.

Other Remarks:

OLA CONTACT:
JPM 8/28/91
FILE: PERSONNEL/GENERAL
CROSS REFERENCES:
1. WHITE HOUSE CORRESPONDENCE

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

27 AUG-91

THE WHITE HOUSE
WASHINGTON

RECEIVED
DEPARTMENT OF JUSTICE

'91 AUG 28 P1:49

EXECUTIVE SECRETARIAT

August 27, 1991

MEMORANDUM FOR WILLIAM P. BARR
ACTING ATTORNEY GENERAL

FROM: MARGARET M. RYDER *mmryder*
ASSOCIATE DIRECTOR OF PRESIDENTIAL PERSONNEL

SUBJECT: Catherine Wood Keller
Assistant to the Attorney General
Office of the Attorney General
Department of Justice
GS-15

In regard to the above personnel action, we concur with your proposal and recommend your proceeding with this action.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: BONNER, ROBERT C., ADMINISTRATOR, DEA
To: DAG
Date Received: 09-26-91 Date Due: 10-07-91 Control #: X91092616944
Subject & Date
09-25-91 MEMO REGARDING A REQUEST FOR THE ALLOCATION OF
ONE ADDITIONAL SENIOR EXECUTIVE SERVICE (SES.) POSITION FOR
THE DRUG ENFORCEMENT ADMINISTRATION (DEA); WITH ATTACHED
LETTER TO OMB SEEKING ALLOCATION OF POSITION SPACE; THRU
JMD, DAG, FOR AG SIGNATURE.

	Referred To:	Date:		Referred To:	Date:	
(1)	JMD;FLICKINGER	09-26-91	(5)			W/IN:
(2)	DAG;TERWILLIGE	10-02-91	(6)			PRTY:
(3)			(7)			1
(4)			(8)			OPR:
	INTERIM BY:			DATE:		MAU
	Sig. For:	AG.		Date Released:	10-07-91	

Remarks

(1) FOR REVIEW AND RECOMMENDATION TO THE DAG. RETURN THRU
EXEC. SEC., ROOM 4400-AA, FOR TRANSMITTAL TO THE DAG.
(2) JMD/FLICKINGER CONCURRED ON 09-30-91. TO DAG FOR
CONCURRENCE. BJ
10-07-91 ACTING AG SIGNED LETTER DATED 10-07-91. ORIGINAL
MAILED BY E.S. ON 10-07-91. E.S. PROVIDED CC TO JMD, DEA.(TJ)

Other Remarks:

KMM SAW; TO GJT 10-03-91
FILE: PERSONNEL/GENERAL, AG CHRON
J910926 3928

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

25
560591



Office of the Attorney General

Washington, D. C. 20530

October 7, 1991

Honorable Richard G. Darman
Director
Office of Management and Budget
Washington, DC 20503

Dear Mr. Darman:

Public Law 100-325 authorized the establishment of a Senior Executive Service (SES) personnel system in the Drug Enforcement Administration (DEA). In view of the important mission and expanding functions of DEA I am requesting an additional SES space for the position of Procuring Contracting Officer.

The DEA has initiated many new programs and expanded ongoing programs which have resulted in our increased enforcement efforts in the war on drugs. The programs are more complex and have required the allocation of additional resources. As a result, there is a direct correlation between DEA's rapid growth and the impact on its Contracting Office. Commensurate with the changes in the investigative programs, the role and responsibility of the Procuring Contracting Officer have increased significantly. The procurement and contracting system, for which the position is responsible, awards approximately 3,000 contractual actions annually with a total value of approximately \$70 million; there are over 50 formal contracts awarded annually. There are approximately 400 personnel who have contracting and procurement responsibilities in over 200 DEA offices worldwide. Providing policy guidance to govern these activities is highly complex and involves detailed analyses as well as extensive interaction with the Department of Justice, other government agencies, and a large number of contractors and subcontractors.

The incumbent will now be directly responsible to the Assistant Administrator for Operational Support and the Administrator of DEA. This Procuring Contracting Officer will be delegated authority to enter into, modify, terminate, make related determinations and findings concerning disputes and final settlements and to administer contract and purchase orders, regardless of dollar value. The decisions made by the incumbent will have both a national and international significance and a dramatically higher monetary responsibility. All aspects of DEA's contract management program such as pricing, financing, placement, administration and costing are areas requiring higher level managerial oversight at DEA.

Honorable Richard G. Darman

2

DEA needs a manager at the highest managerial level in order to provide leadership and develop guidelines to promote a new and expanding program. Within broad guidelines, the incumbent will be relied upon to function with a high level of individual initiative, independent judgment and executive competence. For example, personal contacts will be maintained with the highest level senior policy officials in DEA, Department of Justice, Office of Management and Budget, industry, General Services Administration, business and banking associations, Members of Congress, foreign governments, and the private sector. These contacts will be made to ensure the adequacy of DEA policies, procedures and regulations.

As a result of the increased responsibilities that will be placed on the DEA Procuring Contracting Officer and the increased complexity of DEA's drug program, I request that you approve the allocation of an additional SES space to DEA.

Sincerely,



William P. Barr
Acting Attorney General



ACTION MEMORANDUM

ATTORNEY GENERAL/DEPUTY ATTORNEY GENERAL

Subject Action Memoranda for the Deputy Attorney General	Date SEP 25 1991 <i>Robert C. Bonner</i>
TO: William P. Barr Deputy Attorney General	FROM: Robert C. Bonner Administrator of Drug Enforcement
Summary: Request an additional SES position	

Action Required: Contact OMB to seek allocation of one position space

Due Date/Action Forcing Event: ASAP because of the need to promote new programs

DOJ Coordination: Division/Component and Views (attach comments if other than concurrence)

Informal coordination with the Office of the Procurement Executive. EPU concurs and requests Attorney General's signature on attached letter to Richard Darman.

RECEIVED
DEPARTMENT OF JUSTICE
SEP 26 P 3 32
EXECUTIVE SECRETARIAT

Concurrences:	DAG	OLC	OPD	OLA	PAO	JMD		
Initials	<i>[Signature]</i>	N/A	N/A	N/A	N/A	<i>[Signature]</i>		
Date	10/4/91					9/30/91		

External Coordination: Agency and Views (attach comments if other than concurrence).

Contact Point for Additional Information: Jean D. Mathis, 307-4000

RECEIVED
DEPARTMENT OF JUSTICE
SEP 27 1991
EXECUTIVE SECRETARIAT
MANAGEMENT DIVISION



U.S. Department of Justice

Drug Enforcement Administration

SEP 25 1991

MEMORANDUM

TO: William P. Barr
Deputy Attorney General

FROM: Robert C. Bonner *Robert C. Bonner*
Administrator of Drug Enforcement

SUBJECT: Senior Executive Service (SES) Position Allocation

As you are aware, Public Law 100-325 authorized the establishment of a Senior Executive Service (SES) personnel system in the Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA). President Bush delegated the authority to allocate additional SES positions to the Director, Office of Management and Budget. Therefore, in view of DEA's important mission and our expanding responsibilities in the contract and procurement functions as well as the worldwide transportation and employee relocation services, we request your assistance in seeking another SES space to direct and manage these vital programs.

DEA has initiated many new programs and expanded ongoing programs which have resulted in our increased enforcement efforts in the war on drugs. These programs are more complex and have required the allocation of additional resources. As a result, there is a direct correlation between DEA's rapid growth and the impact on our Contracting Office. Commensurate with the changes in the investigative programs, the role and responsibility of the Procuring Contracting Officer have increased significantly. The procurement and contracting system, for which the position is responsible, awards approximately 3000 contractual actions annually with a total value of approximately \$70 million; there are over 50 formal contracts awarded annually. There are approximately 400 personnel who have contracting and procurement responsibilities in over 200 DEA offices worldwide. Providing policy guidance to govern these activities is highly complex and involves detailed analyses as well as extensive interaction with the Department of Justice, other government agencies, and a large number of contractors and subcontractors.

The incumbent will now be directly responsible to the Assistant Administrator for Operational Support and me. This Procuring Contracting Officer will be delegated authority to enter into, modify, terminate, make related determinations and findings concerning disputes and final settlements and to administer contract and purchase orders, regardless of dollar value. The decisions made by the incumbent will have both a national and international significance and a dramatically higher monetary responsibility. All aspects of DEA's contract management program such as pricing, financing, placement, administration and costing are areas requiring higher level managerial oversight at DEA.

We need improved management and leadership of procurement and acquisition management. DEA needs a manager at the highest managerial level in order to develop the guidelines as required to promote a new or developing program. Within broad guidelines, the incumbent will be relied upon to function with a high level of individual initiative, independent judgement and executive competence. For example, personal contacts will be maintained with the highest level senior policy officials in DEA, Department of Justice, Office of Management and Budget, industry, General Services Administration, business and banking associations, members of Congress, foreign governments, and the private sector. These contacts will be made to ensure the adequacy of DEA policies, procedures and regulations.

As a result of the increased responsibilities that will be placed on the DEA Procuring Contracting Officer, and the increased complexity of DEA's drug program, we believe this position is warranted at an appropriate SES level.

Attachment

25. Description of Major Du

Procuring Contracting Officer
ES-1102-

NATURE AND PURPOSE OF WORK

A. INTRODUCTION: This position is in the Operational Support Division and reports directly to the Assistant Administrator for Operational Support (AA), ES-340-6. The incumbent serves as the Drug Enforcement Administration (DEA) Acquisition Executive with responsibility for supervising the performance of the entire DEA acquisition system; establishes policy for acquisition plans and strategies, validates program acquisition requirements, and develops acquisition program guidance; establishes policy on acquisition matters, to include contracting, procurement, and training and career development of acquisition personnel; establishes policy for administrative oversight of contractors, and for contract administration activities; serves as the DEA procurement executive; and performs other acquisition functions of the Administration.

The incumbent is directly responsible to AA for oversight of all procurement matters in DEA to include directing the development, implementation and management of integrated, coordinated and uniform policies and programs which govern DEA procurement in accordance with applicable public laws and regulations; guiding DEA managers in the conduct of business related activities; and, directing the development and implementation of DEA policies and procedures for system acquisition planning and strategies and review of programs to assure compliance. The procurement and contracting system, for which the incumbent is responsible, awards approximately 3000 contractual actions annually with a total value of approximately \$70 million; there are over 50 formal contracts awarded annually. There are approximately 400 personnel who have contracting and procurement responsibilities in over 200 DEA offices worldwide. Providing policy guidance to govern these activities is highly complex and involves detailed analyses as well as extensive interaction with DOJ, other government agencies, and a large number of contractors and subcontractors.

Additionally, the incumbent is also directly responsible for the worldwide transportation and employee relocation services policies, programs, and plans in support of DEA operations.

B. MAJOR DUTIES: The Procuring Contracting Officer serves as principal advisor to AA and senior policy officials in DEA on contracting and procurement.

Plans, organizes and provides direction to the following service program areas: contracting and procurement activities; travel and transportation of employees and things; and the real estate buyout and related relocation service for transferring employees.

Determines major programs or projects to be initiated, dropped, or curtailed; allocates available resources; and recommends changes in programs.

Directs a continuing review of section programs for the purpose of assessing cost versus benefit in acquisition, transportation, and employee relocation operations to assure optimum use of resources and to ensure effective Section accomplishment of the operational and management needs of DEA; compliance with internal DEA, Department of Justice, General Services Administration, and other control agencies' policies, procedures and regulations; and adequacy of DEA policies, procedures and regulations in the acquisition, transportation, and employee relocation services areas.

Serves as the Chief Contracting Officer for the agency. In this capacity, ensures that the agency's acquisition system meets the certification requirements as specified in DOJ Order 2300.7, dated April 25, 1986, including an Advanced Procurement Planning system; procurement integrity safeguards; technical contracting and procurement training standards necessary for certification of the agency's warranted contracting officials; and implementation of special emphasis programs such as minority owned and small business programs. Program management responsibility in this regard extends to procurement activity throughout DEA's worldwide operations as requested by program officials located in the Headquarters and Field Offices of the agency. Furnishes definitive technical guidance on contractual matters to the Office of the Chief Counsel as required.

Enters into, makes determinations and decisions, and takes other actions consistent with appropriate policies, regulations, and procedures with respect to purchases, contracts, leases, and other transactions except those required by law or regulation to be made by other authority.

Establishes standards for issuing contracting officer authority delegations. Establishes lines of contracting authority that adequately define the position, scope and authority of officials responsible for decision-making in the procurement process.

Participates in the development, negotiation and award of the most difficult and complex contracts. Directs and guides the staff in the preparation of urgently needed and technically difficult or demanding procurement actions so as to effectively meet the Federal Acquisition Regulations (FAR) as well as the mission objectives. Maintains delegated authority as a warranted Contracting Officer with authorization to enter into, modify,

terminate, make related determinations and findings concerning disputes and final settlements and to administer contracts and purchase orders, regardless of dollar value. Maintains close liaison with field management and program officials to insure that program needs are planned and accomplished.

Keeps abreast of economic and employment conditions, logistical concepts, market conditions, and industrial source of supply, technological developments in industry, laws and regulations pertaining to Government contracting, in order to synthesize them into advantageous contracting policies and procedures.

Serves as a key member of the planning staff of the Assistant Administrator for Operational Support. Directs and plans the initial budget formulation for all acquisition, transportation, and employee relocation services operations in DEA in terms of financial resources, personnel ceilings and qualifications and material requirements. Prepares and submits detailed studies for inclusion in staff papers, operational plans and congressional budget submissions.

Represents DEA in meetings and conferences with key staff members of DOJ, GSA and other Federal agencies in the development and implementation of DEA programs and for the purpose of developing DEA positions relative to changes in or new legislation and/or control agency regulations. Maintains liaison with relocation and moving contractors and other private organizations, professional organizations, research centers, universities and other Federal agencies in implementing division programs and furthering program goals and objectives.

C. SUPERVISORY CONTROLS: Incumbent reports directly to the Assistant Administrator for Operational Support. Speaks authoritatively for AA in all assigned matters. Assumes full responsibility for effective, efficient, and responsible functioning of the offices under his/her cognizance. Independently translates overall policies established by AA, as well as those contained in Executive Orders, Congressional directives and statutes, and DOJ guidance into specific guidelines and operational procedures to achieve desired objectives.

D. SUPERVISION EXERCISED: Provides direction to a staff of approximately 36 persons. Directs the activities of subordinate supervisors in guiding and controlling the work of employees, makes decisions on work problems presented by subordinate supervisors, evaluates the performance of subordinate supervisors, hears and resolves grievance and serious employee complaints, etc. Is responsible for providing positive and effective leadership to assure aggressive effort and adherence to Equal Employment Opportunity laws, policies, and principles.

E. GUIDELINES: Within broad policy guidelines, incumbent is relied upon to function with a high level of individual initiative, independent judgment and executive competence. Where applicable, is constrained by policies and procedures mandated by law, executive order, or the FAR, and the basic and detailed principles and regulations upon which government contracting is founded. In many instances, incumbent will develop the guidelines as required to promote a new or developing program.

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: MONTGOMERY, CONG. G.V. (SONNY) CHMN, COMTE/VETERANS AFFAIRS
To: AG. ODD: 11-18-91
Date Received: 11-01-91 Date Due: 11-18-91 Control #: X91110418624
Subject & Date

10-31-91 LETTER FROM THE CHAIRMAN, COMMITTEE ON VETERANS
AFFAIRS, ON BEHALF OF [REDACTED] AN EMPLOYEE IN JMD,
WHO IS TO BE REMOVED FROM HIS POSITION AS PROGRAM SECURITY
SPECIALIST. THE CHAIRMAN IS DISTURBED BY MR. [REDACTED]
ASSERTION THAT THIS ADVERSE ACTION IS BEING TAKEN AGAINST
HIM IN RETALIATION FOR HIS ACTIVITY IN SUPPORT OF DESERT
SHIELD/DESERT STORM. THE CHAIRMAN WISHES TO BE KEPT
FULLY INFORMED OF ALL ACTIONS TAKEN IN THIS CASE.

Referred To:	Date:	Referred To:	Date:	
(1) JMD;FLICKINGER	11-04-91	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		2
INTERIM BY:		DATE:		OPR:
Sig. For: OLA		Date Released: 11-07-91		MLN

Remarks

CC: OLA (REINHARDT). THE CONGRESSMAN PROVIDED A COPY
FOR DAAG MOSCATO. ORIGINAL TO AG FILES.
(1) PREPARE RESPONSE FOR THE SIGNATURE OF AAG RAWLS.
RETURN TO EXEC SEC, WITH COPY OF INCOMING LETTER, FOR
TRANSMITTAL TO OLA.
11-07-91: OLA RESPONDED ON 11-07-91. (BY-PASSED EXEC.
SEC., ORIGINAL SIGNED/DATED LETTER REC'D FROM JMD FOR

Other Remarks:

HAND DELIVERY). COPY TO AG, LEGISLATIVE FILES. (MLH)

OLA CONTACT: TOM REINHARDT (514-2141)

FILE: PERSONNEL/GENERAL
J911104 4402

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

31 OCT 91



U.S. Department of Justice

FOIA(b)(7) - (C)

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

November 7, 1991

Honorable Sonny Montgomery
Chairman
Committee on Veterans Affairs
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This is in response to your recent letter to the Acting Attorney General on behalf of [redacted] an employee of this Department's Justice Management Division. Mr. [redacted] informs you that he has received a proposal that he be removed from his position on the Division's Security and Emergency Planning Staff.

Contrary to the information apparently provided to you, the proposal to remove Mr. [redacted] is not based upon his recent active duty service in support of operation Desert Storm/Desert Shield; this Department has been active in support of its employee-reservists, as evidenced by the Attorney General's sending a personal message to the family of every employee called to service, our establishment of support groups for employees whose loved ones had been called to duty, and the Attorney General's approval of excused absence for reservists returning from active duty. Department employees also had one of the highest per capita donation rates to the Desert Storm/Desert Shield leave bank, an achievement due, at least in part, to the publicity and strong support that the Attorney General gave to the program.

Rather, the proposal to remove Mr. [redacted] a security specialist in a highly sensitive position, is based upon circumstances personal to himself which I may not, consistent with the requirements of the Privacy Act, disclose without Mr. [redacted] permission. You should be aware, however, that no final decision has been made in this matter and that Mr. [redacted] has been and will continue to be afforded all of the procedural protections to which he is entitled by law and regulation.

I hope this information is helpful to you.

Sincerely,

W. Lee Rawls
Assistant Attorney General

DEMOCRATS

G.V. (SONNY) MONTGOMERY, MISSISSIPPI
 DON EDWARDS, CALIFORNIA
 DOUGLAS APPELGATE, OHIO
 LANE EVANS, ILLINOIS
 TIMOTHY J. PENNY, MINNESOTA
 HARLEY O. STAGGERS, JR., WEST VIRGINIA
 J. ROY ROWLAND, GEORGIA
 JIM SLATTERY, KANSAS
 CLAUDE HARRIS, ALABAMA
 JOSEPH P. KENNEDY II, MASSACHUSETTS
 ELIZABETH J. PATTERSON, SOUTH CAROLINA
 GEORGE E. SANGMEISTER, ILLINOIS
 BEN JONES, GEORGIA
 JILL L. LONG, INDIANA
 DOUGLAS "PETE" PETERSON, FLORIDA
 CHET EDWARDS, TEXAS
 MAXINE WATERS, CALIFORNIA
 BILL K. BREWSTER, OKLAHOMA
 OWEN B. PICKETT, VIRGINIA
 PETE GEREN, TEXAS

MACK FLEMING
 STAFF DIRECTOR AND CHIEF COUNSEL

ONE HUNDRED SECOND CONGRESS

G.V. (SONNY) MONTGOMERY
 CHAIRMAN

U.S. House of Representatives

COMMITTEE ON VETERANS' AFFAIRS

335 CANNON HOUSE OFFICE BUILDING

Washington, DC 20515

October 31, 1991

REPUBLICANS

BOB STUMP, ARIZONA
 JOHN PAUL HAMMERSCHMIDT, ARKANSAS
 CHALMERS P. WYLIE, OHIO
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 RICHARD JOHN SANTORUM, PENNSYLVANIA

EXECUTIVE SECRETARIAT

91 NOV -1 P5:07

RECEIVED
DEPARTMENT OF JUSTICE

Honorable William P. Barr
 Acting Attorney General of the United States
 Department of Justice
 Constitution Avenue and Tenth Street, NW
 Washington, DC 20530

Dear Mr. Barr:

I have been contacted by Mr. [REDACTED] who informs me that action has been initiated to remove him from his position as Security Program Specialist, Justice Management Division, and from the Federal service. Mr. [REDACTED] alleges that this action is being taken against him because he volunteered for active duty service during the Persian Gulf War.

Because veterans' reemployment rights (VRR), as contained in chapter 43, title 38, United States Code, come under the jurisdiction of this Committee, I am particularly disturbed by Mr. [REDACTED] assertion that a Federal agency would take adverse action against him in retaliation for his activity in support of Desert Shield/Desert Storm. The Federal government should be a model employer with respect to VRR matters. Accordingly, I would appreciate it if you would keep me fully informed of all actions taken in this case.

Thank you for your assistance in this matter.

Sincerely,

G. V. Montgomery
 G. V. (SONNY) MONTGOMERY
 Chairman

GVM:ek

cc: Mr. Anthony C. Moscato
 Principal Deputy Assistant
 Attorney General

DEPARTMENT OF JUSTICE
EXECUTIVE SECRETARIAT CONTROL DATA SHEET

From: DARMAN, RICHARD, DIRECTOR, OMB
To: AG. ODD: NONE
Date Received: 11-19-91 Date Due: NONE Control #: X91112019425
Subject & Date
11-16-91 LETTER REGARDING THE AG'S CORRESPONDENCE OF
OCTOBER 7, 1991, REQUESTING THE ALLOCATION FOR ONE SENIOR
EXECUTIVE SERVICE (SES.) POSITION FOR THE DRUG ENFORCEMENT
ADMINISTRATION. ADVISES THAT THIS REQUEST HAS BEEN
APPROVED.

SEE E.S. 91092616944 CONTROL SHEET ATTACHED.

Referred To:	Date:	Referred To:	Date:	
(1) JMD;FLICKINGER	11-20-91	(5)		W/IN:
(2)		(6)		
(3)		(7)		PRTY:
(4)		(8)		1
INTERIM BY:		DATE:		OPR:
Sig. For: NONE		Date Released:		EHZ

Remarks
INFO CC: OAG, DAG, DEA.
(1) FOR APPROPRIATE HANDLING.

Other Remarks:

OLA CONTACT:
KMM 11-21-91
FILE: PERSONNEL/GENERAL
J911120 4630
CROSS REFERENCES:
1. OFFICE OF MANAGEMENT & BUDGET

REMOVE THIS CONTROL SHEET PRIOR TO FILING AND DISPOSE OF APPROPRIATELY

16 Nov 91



THE DIRECTOR

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

November 16, 1991

RECEIVED
DEPARTMENT OF JUSTICE

'91 NOV 19 P4:27

EXECUTIVE SECRETARIAT

Honorable William P. Barr
Acting Attorney General
of the United States
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. Barr:

In a letter dated October 7, 1991, you requested the allocation of one Senior Executive Service (SES) position for the Drug Enforcement Administration. Your request has been approved. This allocation will provide an additional SES slot for a Procuring Contracting Officer.

With best regards,

Richard Darman
Director